

AMENDMENTS TO LB 296

Introduced by Johnson, 37

1 1. Strike section 16, the repealer, and the outright
2 repealer and insert the following sections:

3 Section 1. Section 2-15,100, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 2-15,100 The state water planning and review process
6 shall be conducted under the guidance and general supervision of
7 the director. The director shall be assisted in the state water
8 planning and review process by the Game and Parks Commission,
9 the Department of Agriculture, the Governor's Policy Research
10 Office, the Department of Health and Human Services, ~~Regulation~~
11 ~~and Licensure~~, the Department of Environmental Quality, the Water
12 Center of the University of Nebraska, and the Conservation and
13 Survey Division of the University of Nebraska. In addition,
14 the director may obtain assistance from any private individual,
15 organization, political subdivision, or agency of the state or
16 federal government.

17 Sec. 2. Section 2-2626, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 2-2626 The department shall have the following powers,
20 functions, and duties:

21 (1) To administer, implement, and enforce the Pesticide
22 Act and serve as the lead state agency for the regulation of
23 pesticides. The department shall involve the natural resources

1 districts and other state agencies, including the Department of
2 Environmental Quality, the Department of Natural Resources, or the
3 Department of Health and Human Services, ~~Regulation and Licensure,~~
4 in matters relating to water quality. Nothing in the act shall be
5 interpreted in any way to affect the powers of any other state
6 agency or of any natural resources district to regulate for ground
7 water quality or surface water quality as otherwise provided by
8 law;

9 (2) To be responsible for the development and
10 implementation of a state management plan and pesticide management
11 plans. The Department of Environmental Quality shall be responsible
12 for the adoption of standards for pesticides in surface water and
13 ground water, and the Department of Health and Human Services
14 ~~Regulation and Licensure~~ shall be responsible for the adoption
15 of standards for pesticides in drinking water. These standards
16 shall be established as action levels in the state management plan
17 and pesticide management plans at which prevention and mitigation
18 measures are implemented. Such action levels may be set at or
19 below the maximum contaminant level set for any product as set
20 by the federal agency under the federal Safe Drinking Water Act,
21 42 U.S.C. 300f et seq., as the act existed on January 1, 2006.
22 The ~~department~~ Department of Agriculture shall cooperate with and
23 use existing expertise in other state agencies when developing the
24 state management plan and pesticide management plans and shall not
25 hire a hydrologist within the department for such purpose;

26 (3) After notice and public hearing, to adopt
27 and promulgate rules and regulations providing lists of

1 state-limited-use pesticides for the entire state or for a
2 designated area within the state, subject to the following:

3 (a) A pesticide shall be included on a list of
4 state-limited-use pesticides if:

5 (i) The ~~department~~ Department of Agriculture determines
6 that the pesticide, when used in accordance with its directions
7 for use, warnings, and cautions and for uses for which it
8 is registered, may without additional regulatory restrictions
9 cause unreasonable adverse effects on humans or the environment,
10 including injury to the applicator or other persons because of
11 acute dermal or inhalation toxicity of the pesticides;

12 (ii) The water quality standards set by the Department
13 of Environmental Quality or the Department of Health and Human
14 Services ~~Regulation and Licensure~~ pursuant to this section are
15 exceeded; or

16 (iii) The ~~department~~ Department of Agriculture determines
17 that the pesticide requires additional restrictions to meet the
18 requirements of the Pesticide Act, the federal act, or any plan
19 adopted under the Pesticide Act or the federal act;

20 (b) The ~~department~~ Department of Agriculture may regulate
21 the time and conditions of use of a state-limited-use pesticide and
22 may require that it be purchased or possessed only:

23 (i) With permission of the department;

24 (ii) Under direct supervision of the department or its
25 designee in certain areas and under certain conditions;

26 (iii) In specified quantities and concentrations or at
27 specified times; or

1 (iv) According to such other restrictions as the
2 department may set by regulation;

3 (c) The ~~department~~ Department of Agriculture may require
4 a person authorized to distribute or use a state-limited-use
5 pesticide to maintain records of the person's distribution or use
6 and may require that the records be kept separate from other
7 business records;

8 (d) The state management plan and pesticide management
9 plans shall be coordinated with the ~~department~~ Department of
10 Agriculture and other state agency plans and with other state
11 agencies and with natural resources districts;

12 (e) The state management plan and pesticide management
13 plans may impose progressively more rigorous pesticide management
14 practices as pesticides are detected in ground water or surface
15 water at increasing fractions of the standards adopted by the
16 Department of Environmental Quality or the Department of Health and
17 Human Services; ~~Regulation and Licensure;~~ and

18 (f) A pesticide management plan may impose progressively
19 more rigorous pesticide management practices to address any
20 unreasonable adverse effect of pesticides on humans or the
21 environment. When appropriate, a pesticide management plan may
22 establish action levels for imposition of such progressively more
23 rigorous management practices based upon measurable indicators of
24 the adverse effect on humans or the environment;

25 (4) To adopt and promulgate such rules and regulations
26 as are necessary for the enforcement and administration of the
27 Pesticide Act. The regulations shall include, but not be limited

1 to, regulations providing for:

2 (a) The collection of samples, examination of records,
3 and reporting of information by persons subject to the act;

4 (b) The safe handling, transportation, storage, display,
5 distribution, use, and disposal of pesticides and their containers;

6 (c) Labeling requirements of all pesticides required
7 to be registered under provisions of the act, except that
8 such regulations shall not impose any requirements for federally
9 registered labels contrary to those required pursuant to the
10 federal act;

11 (d) Classes of devices which shall be subject to the
12 Pesticide Act;

13 (e) Reporting and record-keeping requirements for persons
14 distributing or using pesticide products made available under
15 section 136p of the federal act and for persons required to keep
16 records under the Pesticide Act;

17 (f) Methods to be used in the application of pesticides
18 when the ~~department~~ Department of Agriculture finds that such
19 regulations are necessary to carry out the purpose and intent
20 of the Pesticide Act. Such regulations may include methods to
21 be used in the application of a restricted-use pesticide, may
22 relate to the time, place, manner, methods, materials, amounts,
23 and concentrations in connection with the use of the pesticide,
24 may restrict or prohibit use of the pesticides in designated areas
25 during specified periods of time, and may provide specific examples
26 and technical interpretations of subdivision (4) of section 2-2646.
27 The regulations shall encompass all reasonable factors which the

1 department deems necessary to prevent damage or injury by drift or
2 misapplication to (i) plants, including forage plants, or adjacent
3 or nearby property, (ii) wildlife in the adjoining or nearby
4 areas, (iii) fish and other aquatic life in waters in reasonable
5 proximity to the area to be treated, (iv) surface water or ground
6 water, and (v) humans, animals, or beneficial insects. In adopting
7 and promulgating such regulations, the department shall give
8 consideration to pertinent research findings and recommendations
9 of other agencies of the state, the federal government, or other
10 reliable sources. The department may, by regulation, require that
11 notice of a proposed use of a pesticide be given to landowners
12 whose property is adjacent to the property to be treated or in the
13 immediate vicinity thereof if the department finds that such notice
14 is necessary to carry out the purpose of the act;

15 (g) State-limited-use pesticides for the state or for
16 designated areas in the state;

17 (h) Establishment of the amount of any fee or fine as
18 directed by the act;

19 (i) Establishment of the components of any state
20 management plan or pesticide management plan;

21 (j) Establishment of categories for licensed pesticide
22 applicators in addition to those established in 40 C.F.R. 171, as
23 the regulation existed on January 1, 2006; and

24 (k) Establishment of a process for the issuance of
25 permits for emergency-use pesticides made available under section
26 136p of the federal act;

27 (5) To enter any public or private premises at any

1 reasonable time to:

2 (a) Inspect and sample any equipment authorized or
3 required to be inspected under the Pesticide Act or to inspect
4 the premises on which the equipment is kept or stored;

5 (b) Inspect or sample any area exposed or reported to be
6 exposed to a pesticide or where a pesticide use has occurred;

7 (c) Inspect and sample any area where a pesticide is
8 disposed of or stored;

9 (d) Observe the use and application of and sample any
10 pesticide;

11 (e) Inspect and copy any records relating to the
12 distribution or use of any pesticide or the issuance of any
13 license, permit, or registration under the act; or

14 (f) Inspect, examine, or take samples from any building
15 or place owned, controlled, or operated by a registrant, licensed
16 certified applicator, or dealer if, from probable cause, it appears
17 that the building or place contains a pesticide;

18 (6) To sample, inspect, make analysis of, and test any
19 pesticide found within this state;

20 (7) To issue and enforce a written or printed order to
21 stop the sale, removal, or use of a pesticide if the ~~department~~
22 Department of Agriculture has reason to believe that the pesticide
23 is in violation of any provision of the act. The department shall
24 present the order to the owner or custodian of the pesticide. The
25 person who receives the order shall not distribute, remove, or use
26 the pesticide until the department determines that the pesticide
27 is in compliance with the act. This subdivision shall not limit

1 the right of the department to proceed as authorized by any other
2 provision of the act;

3 (8) (a) To sue in the name of the director to enjoin
4 any violation of the act. Venue for such action shall be in the
5 county in which the alleged violation occurred, is occurring, or is
6 threatening to occur; and

7 (b) To request the county attorney or the Attorney
8 General to bring suit to enjoin a violation or threatened violation
9 of the act;

10 (9) To impose or levy an administrative fine of not
11 more than five thousand dollars on any person who has violated
12 the provisions, requirements, conditions, limitations, or duties
13 imposed by the act or rules and regulations adopted and promulgated
14 pursuant to the act. A violation means any separate activity or day
15 in which an activity takes place;

16 (10) To cause a violation warning letter to be served
17 upon the alleged violator or violators pursuant to the act;

18 (11) To take measures necessary to ensure that all fees,
19 fines, and penalties prescribed by the act and the rules or
20 regulations adopted under the act are assessed and collected;

21 (12) To access, inspect, and copy all books, papers,
22 records, bills of lading, invoices, and other information
23 relating to the use, manufacture, repackaging, and distribution of
24 pesticides necessary for the enforcement of the act;

25 (13) To seize, for use as evidence, without formal
26 warrant if probable cause exists, any pesticide which is in
27 violation of the act or is not approved by the ~~department~~

1 Department of Agriculture or which is found to be used or
2 distributed in the violation of the act or the rules and
3 regulations adopted and promulgated under it;

4 (14) To declare as a pest any form of plant or animal
5 life, other than humans and other than bacteria, viruses, and other
6 microorganisms on or in living humans or other living animals,
7 which is injurious to health or the environment;

8 (15) To adopt classifications of restricted-use
9 pesticides as determined by the federal agency under the federal
10 act. In addition to the restricted-use pesticides classified by
11 the administrator, the ~~department~~ Department of Agriculture may
12 also determine state-limited-use pesticides for the state or for
13 designated areas within the state as provided in subdivision (3)
14 of this section;

15 (16) To receive grants-in-aid from any federal entity,
16 and to enter into cooperative agreements with any federal entity,
17 any agency of this state, any subdivision of this state, any
18 agency of another state, any Indian tribe, or any private person
19 for the purpose of obtaining consistency with or assistance
20 in the implementation of the Pesticide Act. The ~~department~~
21 Department of Agriculture may reimburse any such entity from
22 the Pesticide Administrative Cash Fund for the work performed
23 under the cooperative agreement. The department may delegate its
24 administrative responsibilities under the act to cities of the
25 metropolitan and primary classes if it reasonably believes that
26 such cities can perform the responsibilities in a manner consistent
27 with the act and the rules and regulations adopted and promulgated

1 under it;

2 (17) To prepare and adopt such plans as are necessary to
3 implement any requirements of the federal agency under the federal
4 act;

5 (18) To request the assistance of the Attorney General
6 or the county attorney in the county in which a violation of the
7 Pesticide Act has occurred with the prosecution or enforcement of
8 any violation of the act;

9 (19) To enter into a settlement agreement with any person
10 regarding the disposition of any license, permit, registration, or
11 administrative fine;

12 (20) To issue a cease and desist order pursuant to
13 section 2-2649;

14 (21) To deny an application or cancel, suspend, or modify
15 the registration of a pesticide pursuant to section 2-2632;

16 (22) To issue, cancel, suspend, modify, or place on
17 probation any license or permit issued pursuant to the act; and

18 (23) To make such reports to the federal agency as are
19 required under the federal act.

20 Sec. 3. Section 2-3254, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 2-3254 (1) The board shall hold a hearing upon the
23 question of the desirability and necessity, in the interest of
24 the public health, safety, and welfare, of the establishment of
25 or altering the boundaries of an existing improvement project area
26 and the undertaking of such a project, upon the question of the
27 appropriate boundaries describing affected land, upon the propriety

1 of the petition, and upon all relevant questions regarding such
2 inquiries. When a hearing has been initiated by petition, such
3 hearing shall be held within one hundred twenty days of the
4 filing of such petition. Notice of such hearing shall be published
5 prior thereto once each week for three consecutive weeks in
6 a legal newspaper published or of general circulation in the
7 district. Landowners within the limits of the territory described
8 in the petition and all other interested parties, including any
9 appropriate agencies of state or federal government, shall have
10 the right to be heard. If the board finds, after consultation with
11 such appropriate agencies of state and federal government and after
12 the hearing, that the project conforms with all applicable law and
13 with the district's goals, criteria, and policies, it shall enter
14 its findings in the board's official records and shall, with the
15 aid of such engineers, surveyors, and other assistants as it may
16 have chosen, establish an improvement project area or alter the
17 boundaries of an existing improvement project area, proceed to make
18 detailed plans and cost estimates, determine the total benefits,
19 and carry out the project as provided in subsections (2) and (3)
20 of this section. If the board finds that the project does not so
21 conform, the findings shall be entered in the board's records and
22 copies of such findings shall be furnished to the petitioners and
23 the commission.

24 (2) When any such special project would result in the
25 provision of revenue-producing continuing services, the board
26 shall, prior to commencement of construction of such project,
27 determine, by circulation of petitions or by some other appropriate

1 method, if such project can be reasonably expected to generate
2 sufficient revenue to recover the reimbursable costs thereof. If
3 it is determined that the project cannot be reasonably expected
4 to generate sufficient revenue, the project and all work in
5 connection therewith shall be suspended. If it is determined that
6 the project can be reasonably expected to generate sufficient
7 revenue, the board shall divide the total benefits of the project
8 as provided in sections 2-3252 to 2-3254. If the proposed project
9 involves the supply of water for any beneficial use, all plans and
10 specifications for the project shall be filed with the secretary
11 of the district and the Director of Natural Resources, except
12 that if such project involves a public water system as defined in
13 section 71-5301, the filing of the information shall be with the
14 Department of Health and Human Services ~~Regulation and Licensure~~
15 rather than the Director of Natural Resources. No construction
16 of any such special project shall begin until the plans and
17 specifications for such improvement have been approved by the
18 Director of Natural Resources and the Department of Health and
19 Human Services, ~~Regulation and Licensure~~, if applicable, except
20 that if such special project involves a public water system
21 as defined in section 71-5301, only the Department of Health
22 and Human Services ~~Regulation and Licensure~~ shall be required
23 to review such plans and specifications and approve the same
24 if in compliance with the Nebraska Safe Drinking Water Act and
25 departmental rules and regulations adopted and promulgated under
26 the act. All prescribed conditions having been complied with,
27 each landowner within the improvement project area shall, within

1 any limits otherwise prescribed by law, subscribe to a number of
2 benefit units in proportion to the extent he or she desires to
3 participate in the benefits of the special project. As long as
4 the capacity of the district's facilities permit, participating
5 landowners may subscribe to additional units, within any limits
6 otherwise prescribed by law, upon payment of a unit fee for
7 each such unit. The unit fees made and charged pursuant to this
8 section shall be levied and fixed by rules and regulations of the
9 district. The service provided may be withheld during the time
10 such charges levied upon such parcel of land are delinquent and
11 unpaid. Such charges shall be cumulative, and the service provided
12 by the project may be withheld until all delinquent charges for
13 the operation and maintenance of such works of improvement are paid
14 for past years as well as for the current year. All such charges,
15 due and delinquent according to the rules and regulations of such
16 district and unpaid on June 1 after becoming due and delinquent,
17 may be certified by the governing authority of such district to
18 the county clerk of such county in which are situated the lands
19 against which such charges have been levied, and when so certified
20 such charges shall be entered upon the tax list and spread upon
21 the tax roll the same as other special assessment taxes are levied
22 and assessed upon real estate, shall become a lien upon such real
23 estate along with other real estate taxes, and shall be collectible
24 at the same time, in the same manner, and in the same proceeding as
25 other real estate taxes are levied.

26 (3) When the special project would not result in the
27 provision of revenue-producing continuing services, the board shall

1 apportion the benefits thereof accruing to the several tracts of
2 land within the district which will be benefited thereby, on a
3 system of units. The land least benefited shall be apportioned
4 one unit of assessment, and each tract receiving a greater benefit
5 shall be apportioned a greater number of units or fraction thereof,
6 according to the benefits received. Nothing contained in this
7 section shall prevent the district from establishing separate
8 areas within the improvement project area so as to permit future
9 allocation of costs for particular portions of the work to specific
10 subareas. This subarea method of allocation shall not be used in
11 any improvement project area which has heretofore made a final
12 apportionment of units of benefits and shall not thereafter be
13 changed except by compliance with the procedure prescribed in this
14 section.

15 (4) A notice shall be inserted for at least one week in
16 a newspaper published or of general circulation in the improvement
17 project area stating the time when and the place where the
18 directors shall meet for the purpose of hearing all parties
19 interested in the apportionment of benefits by reason of the
20 improvement, at which time and place such parties may appear in
21 person or by counsel or may file written objections thereto. The
22 directors shall then proceed to hear and consider the same and
23 shall make the apportionments fair and just according to benefits
24 received from the improvement. The directors, having completed the
25 apportionment of benefits, shall make a detailed report of the
26 same and file such report with the county clerk. The board of
27 directors shall include in such report a statement of the actual

1 expenses incurred by the district to that time which relate to
2 the proposed project and the actual cost per benefit unit thereof.
3 Thereupon the board of directors shall cause to be published, once
4 each week for three consecutive weeks in a newspaper published or
5 of general circulation in the improvement project area, a notice
6 that the report required in this subsection has been filed and
7 notice shall also be sent to each party appearing to have a
8 direct legal interest in such apportionment, which notice shall
9 include the description of the lands in which each party notified
10 appears to have such interest, the units of benefit assigned to
11 such lands, the amount of actual costs assessable to date to such
12 lands, and the estimated total costs of the project assessable
13 to such lands upon completion thereof, as provided by sections
14 25-520.01 to 25-520.03. If the owners of record title representing
15 more than fifty percent of the estimated total assessments file
16 with the board within thirty days of the final publication of such
17 notice written objections to the project proposed, such project
18 and work in connection therewith shall be suspended, such project
19 shall not be done in such project area, and all expenses relating
20 to such project incurred by and accrued to the district may, at
21 the direction of the board of directors, be assessed upon the
22 lands which were to have been benefited by the completion of
23 such improvement project in accordance with the apportionment of
24 benefits determined and procedures established in this section.
25 Upon completing the establishment of an improvement project area or
26 altering the boundaries of an existing improvement project area as
27 provided in this subsection and upon determining the reimbursable

1 cost of the project and the period of time over which such
2 cost shall be assessed, the board of directors shall determine
3 the amount of money necessary to raise each year by special
4 assessment within such improvement project area and apportion the
5 same in dollars and cents to each tract benefited according to
6 the apportionment of benefits as determined by this section. The
7 board of directors shall also, from time to time as it deems
8 necessary, order an additional assessment upon the lands and
9 property benefited by the project, using the original apportionment
10 of benefits as a basis to ascertain the assessment to each tract of
11 land benefited, to carry out a reasonable program of operation and
12 maintenance upon the construction or capital improvements involved
13 in such project. The chairperson and secretary shall thereupon
14 return lists of such tracts with the amounts chargeable to each
15 of the county clerks of each county in which assessed lands are
16 located, who shall place the same on duplicate tax lists against
17 the lands and lots so assessed. Such assessments shall be collected
18 and accounted for by the county treasurer at the same time as
19 general real estate taxes, and such assessments shall be and
20 remain a perpetual lien against such real estate until paid. All
21 provisions of law for the sale, redemption, and foreclosure in
22 ordinary tax matters shall apply to such special assessments.

23 Sec. 4. Section 2-3925, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 2-3925 The dairy farm water supply shall be safe, clean,
26 and ample for the cleaning of dairy utensils and equipment. The
27 water supply shall meet the bacteriological standards established

1 by the Department of Health and Human Services ~~Regulation and~~
2 ~~Licensure~~ at all times. Water samples shall be taken, analyzed, and
3 found to be in compliance with the requirements of the Nebraska
4 Manufacturing Milk Act prior to the issuance of a permit to
5 the producer and whenever any major change to the well or water
6 source occurs. Wells or water sources which do not meet the
7 construction standards of the Department of Health and Human
8 Services ~~Regulation and Licensure~~ shall be tested annually, and
9 wells which do meet the construction standards of the Department
10 of Health and Human Services ~~Regulation and Licensure~~ shall be
11 tested every three years. Whenever major alterations or repairs
12 occur or a water source repeatedly recontaminates, the water
13 supply shall be unacceptable until such time as the construction
14 standards are met and an acceptable supply is demonstrated. On
15 and after October 1, 1989, all new producers issued permits under
16 the Nebraska Manufacturing Milk Act shall be required to meet the
17 construction standards established by the Department of Health and
18 Human Services ~~Regulation and Licensure~~ for private water supplies.

19 Sec. 5. Section 2-3928, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 2-3928 (1) At the dairy plant and the receiving station,
22 there shall be an ample supply of both hot and cold water
23 of safe and sanitary quality with adequate facilities for its
24 proper distribution throughout the plant and protected against
25 contamination. Water from other facilities, when officially
26 approved, may be used for boiler feed water and condenser water so
27 long as such water lines are completely separated from the water

1 lines carrying the sanitary water supply and the equipment is so
2 constructed and controlled as to preclude contamination of product
3 contact surfaces. There shall be no cross-connection between
4 potable water lines and nonpotable water lines or between public
5 and private water supplies. Bacteriological examinations shall be
6 made of the plant's sanitary water supply which shall include water
7 extracted from milk and cooling water taken at the plant at least
8 twice each year. The results of all water tests shall be kept on
9 file at the plant for which the test was performed.

10 (2) The location, construction, and operation of any well
11 shall comply with rules and regulations of the Department of Health
12 and Human Services, ~~Regulation and Licensure.~~

13 (3) Drinking water facilities of a sanitary type shall be
14 provided in the plant and should be conveniently located.

15 (4) Convenient handwashing facilities shall be provided,
16 including hot and cold running water, soap or other detergents, and
17 sanitary single-service towels or air driers. Such accommodations
18 shall be located in or adjacent to toilet and dressing rooms and
19 also at such other places in the plant as may be essential to the
20 cleanliness of all personnel handling products. Vats for washing
21 equipment or utensils shall not be used as handwashing facilities.
22 Containers shall be provided for used towels and other wastes. The
23 containers may be metal or plastic, may be disposable or reusable,
24 and shall have self-closing covers.

25 (5) Steam shall be supplied in sufficient volume and
26 pressure for satisfactory operation of each applicable piece of
27 equipment. Culinary steam used in direct contact with milk or

1 dairy products shall be free from harmful substances or extraneous
2 material and only those boiler water additives approved by the
3 department shall be used, or a secondary steam generator shall be
4 used, in which soft water is converted to steam and no boiler
5 compounds are used. Steam traps, strainers, and condensate traps
6 shall be used wherever applicable to insure a satisfactory and safe
7 steam supply. Culinary steam shall comply with the 3-A Accepted
8 Practices for a Method of Producing Steam of Culinary Quality.

9 (6) The method for supplying air under pressure which
10 comes in contact with milk or dairy products or any product contact
11 surfaces shall comply with the 3-A Accepted Practices for Supplying
12 Air Under Pressure.

13 (7) Dairy wastes shall be properly disposed of from
14 the plant and premises. The sewer system shall have sufficient
15 slope and capacity to readily remove all waste from the various
16 processing operations. Where a public sewer is not available, all
17 wastes shall be properly disposed of so as not to contaminate
18 milk equipment or to create a nuisance or public health hazard.
19 Containers used for the collection and holding of wastes shall be
20 constructed of metal, plastic, or other equally impervious material
21 and kept covered with tight-fitting lids. Waste shall be stored in
22 an area or room in a manner to protect it from flies and vermin.
23 Solid wastes shall be disposed of regularly and the containers
24 cleaned before reuse. Accumulation of dry wastepaper and cardboard
25 shall be kept to a minimum and disposed of in a manner that is
26 environmentally acceptable.

27 Sec. 6. Section 2-3932, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 2-3932 No person with any disease in a communicable form,
3 or who is a carrier of such disease, shall work at any dairy farm
4 or milk plant in any capacity which brings him or her into contact
5 with the production, handling, storage, or transportation of milk,
6 milk products, containers, or equipment, and no dairy farm or milk
7 plant shall employ in any such capacity any such person, or any
8 person suspected of having any disease in a communicable form, or
9 of being a carrier of such disease. Any producer or distributor
10 of milk or milk products upon whose dairy farm, or in whose milk
11 plant, any communicable disease occurs, or who suspects that any
12 employee has contracted any disease in a communicable form or
13 has become a carrier of such disease, shall notify the director
14 immediately who shall immediately notify the local board of health
15 or the Department of Health and Human Services. ~~Regulation and~~
16 ~~Licensure.~~

17 When reasonable cause exists to suspect the possibility
18 of transmission of infection from any person concerned with the
19 handling of milk or milk products, the director may require any
20 or all of the following measures: (1) The immediate exclusion of
21 that person from milk handling; (2) the immediate exclusion of the
22 milk supply concerned from distribution and use; or (3) adequate
23 medical and bacteriological examination of the person, or his or
24 her associates, and of his or her and their body discharges.

25 Sec. 7. Section 2-4901, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 2-4901 (1) The Climate Assessment Response Committee is

1 hereby created. The office of the Governor shall be the lead agency
2 and shall oversee the committee and its activities. The committee
3 shall be composed of representatives appointed by the Governor
4 with the approval of a majority of the Legislature from livestock
5 producers, crop producers, and the Nebraska Emergency Management
6 Agency, Conservation and Survey Division and Cooperative Extension
7 Service of the University of Nebraska, Department of Agriculture,
8 Department of Health and Human Services, ~~Regulation and Licensure,~~
9 Department of Natural Resources, and Governor's Policy Research
10 Office. Representatives from the federal Farm Service Agency and
11 Federal Crop Insurance Corporation may also serve on the committee
12 at the invitation of the Governor. The Governor may appoint the
13 chairperson of the Committee on Agriculture of the Legislature
14 and the chairperson of the Committee on Natural Resources of the
15 Legislature and any other state agency representatives or invite
16 any other federal agencies to name representatives as he or she
17 deems necessary. The Governor shall appoint one of the Climate
18 Assessment Response Committee members to serve as the chairperson
19 of the committee. Committee members shall be reimbursed for actual
20 and necessary expenses as provided in sections 81-1174 to 81-1177.

21 (2) The committee shall meet at least twice each year and
22 shall meet more frequently (a) at the call of the chairperson, (b)
23 upon request of a majority of the committee members, and (c) during
24 periods of drought or other severe climate situations.

25 (3) The chairperson may establish subcommittees and may
26 invite representatives of agencies other than those with members on
27 the committee to serve on such subcommittees.

1 (4) Any funds for the activities of the committee and for
2 other climate-related expenditures may be appropriated directly to
3 the office of the Governor for contracting with other agencies or
4 persons for tasks approved by the committee.

5 Sec. 8. Section 13-1207, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 13-1207 Prior to the promulgation of rules and
8 regulations pursuant to section 13-1212, and prior to the awarding
9 of federal or state funds under any program administered by
10 the department or any other state agency which affects the
11 transportation of the elderly, such rules and regulations and the
12 awarding of such funds shall be reviewed by the ~~Director~~ Department
13 of Health and Human Services.

14 Sec. 9. Section 23-1204.06, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 23-1204.06 A grant program is established to reimburse
17 counties for the personal service costs of deputy county attorneys
18 associated with termination of parental rights actions resulting
19 from Laws 1998, LB 1041. Counties in which a city of the
20 metropolitan class or a city of the primary class is located
21 are eligible for grants under this program. The Department of
22 Health and Human Services ~~Finance and Support~~ shall administer
23 the program. Counties receiving grants shall submit quarterly
24 expenditure reports to the department.

25 Sec. 10. Section 23-3595, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 23-3595 All hospitals operated directly by an authority

1 and not operated or leased as lessee by a nonprofit person, firm,
2 partnership, limited liability company, association, or corporation
3 shall be operated by the board of trustees of such authority
4 according to the best interests of the public health, and the board
5 of trustees shall make and enforce all rules, regulations, and
6 bylaws necessary for the administration, government, protection,
7 and maintenance of such hospitals and all property belonging
8 thereto and may prescribe the terms upon which patients may
9 be admitted thereto. Such hospitals shall not be required to
10 contract with counties or with agencies thereof to provide care for
11 indigent county patients at below the cost for care. In fixing the
12 basic room rates for such hospitals, the board of trustees shall
13 establish such basic room rates as will, together with other income
14 and revenue available for such purpose and however derived, permit
15 each such hospital to be operated upon a self-supporting basis.
16 In establishing basic room rates for such hospital, the board of
17 trustees shall give due consideration to at least the following
18 factors: Costs of administration, operation, and maintenance of
19 such hospitals; the cost of making necessary repairs and renewals
20 thereto; debt service requirements; the creation of reserves for
21 contingencies; and projected needs for expansion and for the making
22 of major improvements. Minimum standards of operation for such
23 hospitals, at least equal to those set by the Department of Health
24 and Human Services, ~~Regulation and Licensure~~, shall be established
25 and enforced by the board of trustees.

26 In the case of hospitals financed with the proceeds
27 of bonds issued by an authority, but not operated directly

1 by an authority, the board of trustees shall require that the
2 financing documents contain covenants of the operators of such
3 hospitals to establish rates at least sufficient to pay costs of
4 administration, operation, and maintenance of such hospitals, the
5 cost of making necessary repairs and renewals thereto, and to
6 provide for debt service requirements, the creation of reserves for
7 contingencies, and projected needs for expansion and the making of
8 major improvements.

9 Sec. 11. Section 28-322.04, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 28-322.04 (1) For purposes of this section:

12 (a) Person means an individual employed by the Department
13 of Health and Human Services, ~~the Department of Health and Human~~
14 ~~Services Regulation and Licensure, or the Department of Health~~
15 ~~and Human Services Finance and Support~~ and includes, but is not
16 limited to, any individual working in central administration or
17 regional service areas or facilities of the ~~departments~~ department
18 and any individual to whom ~~one of the departments~~ the department
19 has authorized or delegated control over a protected individual
20 or a protected individual's activities, whether by contract or
21 otherwise; and

22 (b) Protected individual means an individual in the
23 care or custody of the ~~Department of Health and Human Services.~~
24 department.

25 (2) A person commits the offense of sexual abuse of a
26 protected individual if the person subjects a protected individual
27 to sexual penetration or sexual contact as those terms are defined

1 in section 28-318. It is not a defense to a charge under this
2 section that the protected individual consented to such sexual
3 penetration or sexual contact.

4 (3) Any person who subjects a protected individual to
5 sexual penetration is guilty of sexual abuse of a protected
6 individual in the first degree. Sexual abuse of a protected
7 individual in the first degree is a Class III felony.

8 (4) Any person who subjects a protected individual to
9 sexual contact is guilty of sexual abuse of a protected individual
10 in the second degree. Sexual abuse of a protected individual in the
11 second degree is a Class IV felony.

12 Sec. 12. Section 28-326, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 28-326 For purposes of sections 28-325 to 28-345, unless
15 the context otherwise requires:

16 (1) Abortion means the use or prescription of any
17 instrument, medicine, drug, or other substance or device
18 intentionally to terminate the pregnancy of a woman known to be
19 pregnant with an intention other than to increase the probability
20 of a live birth, to preserve the life or health of the child after
21 live birth, or to remove a dead unborn child, and which causes the
22 premature termination of the pregnancy;

23 (2) Hospital means those institutions licensed by the
24 Department of Health and Human Services ~~Regulation and Licensure~~
25 pursuant to the Health Care Facility Licensure Act;

26 (3) Physician means any person licensed to practice
27 medicine in this state as provided in sections 71-102 to 71-110;

1 (4) Pregnant means that condition of a woman who has
2 unborn human life within her as the result of conception;

3 (5) Conception means the fecundation of the ovum by the
4 spermatozoa;

5 (6) Viability means that stage of human development when
6 the unborn child is potentially able to live more than merely
7 momentarily outside the womb of the mother by natural or artificial
8 means;

9 (7) Emergency situation means that condition which, on
10 the basis of the physician's good faith clinical judgment, so
11 complicates the medical condition of a pregnant woman as to
12 necessitate the immediate abortion of her pregnancy to avert her
13 death or for which a delay will create serious risk of substantial
14 impairment of a major bodily function;

15 (8) Probable gestational age of the unborn child means
16 what will with reasonable probability, in the judgment of the
17 physician, be the gestational age of the unborn child at the time
18 the abortion is planned to be performed; and

19 (9) Partial-birth abortion means an abortion procedure
20 in which the person performing the abortion partially delivers
21 vaginally a living unborn child before killing the unborn child and
22 completing the delivery. For purposes of this subdivision, the term
23 partially delivers vaginally a living unborn child before killing
24 the unborn child means deliberately and intentionally delivering
25 into the vagina a living unborn child, or a substantial portion
26 thereof, for the purpose of performing a procedure that the person
27 performing such procedure knows will kill the unborn child and does

1 kill the unborn child.

2 Sec. 13. Section 28-328, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 28-328 (1) No partial-birth abortion shall be performed
5 in this state, unless such procedure is necessary to save the life
6 of the mother whose life is endangered by a physical disorder,
7 physical illness, or physical injury, including a life-endangering
8 physical condition caused by or arising from the pregnancy itself.

9 (2) The intentional and knowing performance of an
10 unlawful partial-birth abortion in violation of subsection (1) of
11 this section is a Class III felony.

12 (3) No woman upon whom an unlawful partial-birth abortion
13 is performed shall be prosecuted under this section or for
14 conspiracy to violate this section.

15 (4) The intentional and knowing performance of an
16 unlawful partial-birth abortion shall result in the automatic
17 suspension and revocation of an attending physician's license to
18 practice medicine in Nebraska by the ~~Director of Regulation and~~
19 ~~Licensure~~ Division of Public Health pursuant to sections 71-147 to
20 71-161.20.

21 (5) Upon the filing of criminal charges under this
22 section by the Attorney General or a county attorney, the Attorney
23 General shall also file a petition to suspend and revoke the
24 attending physician's license to practice medicine pursuant to
25 section 71-150. A hearing on such administrative petition shall
26 be set in accordance with section 71-153. At such hearing, the
27 attending physician shall have the opportunity to present evidence

1 that the physician's conduct was necessary to save the life
2 of a mother whose life was endangered by a physical disorder,
3 physical illness, or physical injury, including a life-endangering
4 physical condition caused by or arising from the pregnancy itself.
5 A defendant against whom criminal charges are brought under this
6 section may bring a motion to delay the beginning of the trial
7 until after the entry of an order by the ~~Director of Regulation and~~
8 ~~Licensure~~ Director of Public Health pursuant to section 71-155. The
9 findings of the ~~Director of Regulation and Licensure~~ director as to
10 whether the attending physician's conduct was necessary to save the
11 life of a mother whose life was endangered by a physical disorder,
12 physical illness, or physical injury, including a life-endangering
13 physical condition caused by or arising from the pregnancy itself,
14 shall be admissible in the criminal proceedings brought pursuant to
15 this section.

16 Sec. 14. Section 28-343, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 28-343 The Department of Health and Human Services
19 ~~Finance and Support~~ shall prescribe an abortion reporting form
20 which shall be used for the reporting of every abortion performed
21 in this state. Such form shall include the following items:

- 22 (1) The age of the pregnant woman;
- 23 (2) The location of the facility where the abortion was
24 performed;
- 25 (3) The type of procedure performed;
- 26 (4) Complications, if any;
- 27 (5) The name of the attending physician;

1 (6) The pregnant woman's obstetrical history regarding
2 previous pregnancies, abortions, and live births;

3 (7) The stated reason or reasons for which the abortion
4 was requested;

5 (8) The state of the pregnant woman's legal residence;

6 (9) The length and weight of the aborted child, when
7 measurable;

8 (10) Whether an emergency situation caused the physician
9 to waive any of the requirements of section 28-327; and

10 (11) Such other information as may be prescribed in
11 accordance with section 71-602.

12 The completed form shall be signed by the attending
13 physician and sent to the department within fifteen days after each
14 reporting month. The completed form shall be an original, typed or
15 written legibly in durable ink, and shall not be deemed complete
16 unless the omission of any item of information required shall have
17 been disclosed or satisfactorily accounted for. Carbon copies shall
18 not be acceptable. The abortion reporting form shall not include
19 the name of the person upon whom the abortion was performed. The
20 abortion reporting form shall be confidential and shall not be
21 revealed except upon the order of a court of competent jurisdiction
22 in a civil or criminal proceeding.

23 Sec. 15. Section 28-345, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 28-345 The Department of Health and Human Services
26 ~~Finance and Support~~ shall prepare and keep on permanent file
27 compilations of the information submitted on the abortion reporting

1 forms pursuant to such rules and regulations as established by
2 the ~~Department of Health and Human Services Finance and Support,~~
3 department, which compilations shall be a matter of public record.
4 Under no circumstances shall the compilations of information
5 include the name of any attending physician or identify in any
6 respect facilities where abortions are performed. The ~~Department of~~
7 ~~Health and Human Services Finance and Support,~~ department, in order
8 to maintain and keep such compilations current, shall file with
9 such reports any new or amended information.

10 Sec. 16. Section 28-356, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 28-356 Department shall mean the Department of Health and
13 Human Services. ~~Finance and Support.~~

14 Sec. 17. Section 28-372, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 28-372 (1) When any physician, psychologist, physician
17 assistant, nurse, nursing assistant, other medical, developmental
18 disability, or mental health professional, law enforcement
19 personnel, caregiver or employee of a caregiver, operator or
20 employee of a sheltered workshop, owner, operator, or employee
21 of any facility licensed by the ~~Department of Health and Human~~
22 ~~Services Regulation and Licensure,~~ department, or human services
23 professional or paraprofessional not including a member of the
24 clergy has reasonable cause to believe that a vulnerable adult has
25 been subjected to abuse or observes such adult being subjected to
26 conditions or circumstances which reasonably would result in abuse,
27 he or she shall report the incident or cause a report to be made

1 to the appropriate law enforcement agency or to the ~~Department~~
2 ~~of Health and Human Services Finance and Support.~~ department. Any
3 other person may report abuse if such person has reasonable cause
4 to believe that a vulnerable adult has been subjected to abuse or
5 observes such adult being subjected to conditions or circumstances
6 which reasonably would result in abuse.

7 (2) Such report may be made by telephone, with the
8 caller giving his or her name and address, and, if requested by
9 the department, shall be followed by a written report within
10 forty-eight hours. To the extent available the report shall
11 contain: (a) The name, address, and age of the vulnerable adult;
12 (b) the address of the caregiver or caregivers of the vulnerable
13 adult; (c) the nature and extent of the alleged abuse or the
14 conditions and circumstances which would reasonably be expected to
15 result in such abuse; (d) any evidence of previous abuse including
16 the nature and extent of the abuse; and (e) any other information
17 which in the opinion of the person making the report may be helpful
18 in establishing the cause of the alleged abuse and the identity of
19 the perpetrator or perpetrators.

20 (3) Any law enforcement agency receiving a report of
21 abuse shall notify the department no later than the next working
22 day by telephone or mail.

23 (4) A report of abuse made to the department which was
24 not previously made to or by a law enforcement agency shall be
25 communicated to the appropriate law enforcement agency by the
26 department no later than the next working day by telephone or mail.

27 (5) The department shall establish a statewide toll-free

1 number to be used by any person any hour of the day or night and
2 any day of the week to make reports of abuse.

3 Sec. 18. Section 28-377, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 28-377 Except as otherwise provided in sections 28-376
6 to 28-380, no person, official, or agency shall have access to
7 the records relating to abuse unless in furtherance of purposes
8 directly connected with the administration of the Adult Protective
9 Services Act and section 28-726. Persons, officials, and agencies
10 having access to such records shall include, but not be limited to:

11 (1) A law enforcement agency investigating a report of
12 known or suspected abuse;

13 (2) A county attorney in preparation of an abuse
14 petition;

15 (3) A physician who has before him or her a person whom
16 he or she reasonably suspects may be abused;

17 (4) An agency having the legal responsibility or
18 authorization to care for, treat, or supervise an abused vulnerable
19 adult;

20 (5) Defense counsel in preparation of the defense of a
21 person charged with abuse;

22 (6) Any person engaged in bona fide research or auditing,
23 except that no information identifying the subjects of the
24 report shall be made available to the researcher or auditor.
25 The researcher shall be charged for any costs of such research
26 incurred by the department at a rate established by rules and
27 regulations adopted and promulgated by the department;

1 (7) The designated protection and advocacy system
2 authorized pursuant to the Developmental Disabilities Assistance
3 and Bill of Rights Act, 42 U.S.C. 6000, as the act existed on
4 September 1, 2001, and the Protection and Advocacy for Mentally Ill
5 Individuals Act, 42 U.S.C. 10801, as the act existed on September
6 1, 2001, acting upon a complaint received from or on behalf of a
7 person with developmental disabilities or mental illness; and

8 (8) For purposes of licensing providers of child care
9 programs, the ~~Department of Health and Human Services Regulation~~
10 ~~and Licensure~~ department.

11 Sec. 19. Section 28-380, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 28-380 At any time subsequent to the completion of the
14 department's investigation, if a vulnerable adult, the guardian
15 of a vulnerable adult, or a person who allegedly abused a
16 vulnerable adult and who is mentioned in a report believes the
17 information in the report is inaccurate or being maintained in a
18 manner inconsistent with the Adult Protective Services Act, such
19 person may request the department to amend or expunge identifying
20 information from the report or remove the record of such report
21 from the registry. If the department refuses to do so or does
22 not act within thirty days, the vulnerable adult or person who
23 allegedly abused a vulnerable adult shall have the right to a
24 hearing to determine whether the record of the report should be
25 amended, expunged, or removed on the grounds that it is inaccurate
26 or that it is being maintained in a manner inconsistent with such
27 act. Such hearing shall be held within a reasonable time after a

1 request is made and at a reasonable place and hour. At the hearing
2 the burden of proving the accuracy and consistency of the record
3 shall be on the department. The hearing shall be conducted by the
4 chief executive officer of the department ~~Director of Finance and~~
5 ~~Support~~ or his or her designated representative, who is hereby
6 authorized and empowered to order the amendment, expunction, or
7 removal of the record to make such record accurate or consistent
8 with the requirements of the Adult Protective Services Act. The
9 decision shall be made in writing within thirty days of the close
10 of the hearing and shall state the reasons upon which it is based.
11 Decisions of the department may be appealed, and the appeal shall
12 be in accordance with the Administrative Procedure Act.

13 Sec. 20. Section 28-401, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 28-401 As used in the Uniform Controlled Substances Act,
16 unless the context otherwise requires:

17 (1) Administer shall mean to directly apply a controlled
18 substance by injection, inhalation, ingestion, or any other means
19 to the body of a patient or research subject;

20 (2) Agent shall mean an authorized person who acts on
21 behalf of or at the direction of another person but shall not
22 include a common or contract carrier, public warehouse keeper, or
23 employee of a carrier or warehouse keeper;

24 (3) Administration shall mean the Drug Enforcement
25 Administration, United States Department of Justice;

26 (4) Controlled substance shall mean a drug, biological,
27 substance, or immediate precursor in Schedules I to V of section

1 28-405. Controlled substance shall not include distilled spirits,
2 wine, malt beverages, tobacco, or any nonnarcotic substance if such
3 substance may, under the Federal Food, Drug, and Cosmetic Act, 21
4 U.S.C. 301 et seq., as such act existed on January 1, 2003, and
5 the law of this state, be lawfully sold over the counter without a
6 prescription;

7 (5) Counterfeit substance shall mean a controlled
8 substance which, or the container or labeling of which, without
9 authorization, bears the trademark, trade name, or other
10 identifying mark, imprint, number, or device, or any likeness
11 thereof, of a manufacturer, distributor, or dispenser other than
12 the person or persons who in fact manufactured, distributed, or
13 dispensed such substance and which thereby falsely purports or is
14 represented to be the product of, or to have been distributed by,
15 such other manufacturer, distributor, or dispenser;

16 (6) Department shall mean the Department of Health and
17 Human Services; ~~Regulation and Licensure;~~

18 (7) Division of Drug Control shall mean the personnel of
19 the Nebraska State Patrol who are assigned to enforce the Uniform
20 Controlled Substances Act;

21 (8) Dispense shall mean to deliver a controlled substance
22 to an ultimate user or a research subject pursuant to a medical
23 order issued by a practitioner authorized to prescribe, including
24 the packaging, labeling, or compounding necessary to prepare the
25 controlled substance for such delivery;

26 (9) Distribute shall mean to deliver other than by
27 administering or dispensing a controlled substance;

1 (10) Prescribe shall mean to issue a medical order;

2 (11) Drug shall mean (a) articles recognized in
3 the official United States Pharmacopoeia, official Homeopathic
4 Pharmacopoeia of the United States, official National Formulary,
5 or any supplement to any of them, (b) substances intended for use
6 in the diagnosis, cure, mitigation, treatment, or prevention of
7 disease in human beings or animals, and (c) substances intended for
8 use as a component of any article specified in subdivision (a) or
9 (b) of this subdivision, but shall not include devices or their
10 components, parts, or accessories;

11 (12) Deliver or delivery shall mean the actual,
12 constructive, or attempted transfer from one person to another
13 of a controlled substance, whether or not there is an agency
14 relationship;

15 (13) Marijuana shall mean all parts of the plant of
16 the genus cannabis, whether growing or not, the seeds thereof,
17 and every compound, manufacture, salt, derivative, mixture, or
18 preparation of such plant or its seeds, but shall not include
19 the mature stalks of such plant, hashish, tetrahydrocannabinols
20 extracted or isolated from the plant, fiber produced from such
21 stalks, oil or cake made from the seeds of such plant, any other
22 compound, manufacture, salt, derivative, mixture, or preparation of
23 such mature stalks, or the sterilized seed of such plant which is
24 incapable of germination. When the weight of marijuana is referred
25 to in the Uniform Controlled Substances Act, it shall mean its
26 weight at or about the time it is seized or otherwise comes into
27 the possession of law enforcement authorities, whether cured or

1 uncured at that time;

2 (14) Manufacture shall mean the production, preparation,
3 propagation, compounding, conversion, or processing of a controlled
4 substance, either directly or indirectly, by extraction from
5 substances of natural origin, independently by means of chemical
6 synthesis, or by a combination of extraction and chemical
7 synthesis, and shall include any packaging or repackaging of the
8 substance or labeling or relabeling of its container. Manufacture
9 shall not include the preparation or compounding of a controlled
10 substance by an individual for his or her own use, except for the
11 preparation or compounding of components or ingredients used for or
12 intended to be used for the manufacture of methamphetamine, or the
13 preparation, compounding, conversion, packaging, or labeling of a
14 controlled substance: (a) By a practitioner as an incident to his
15 or her prescribing, administering, or dispensing of a controlled
16 substance in the course of his or her professional practice; or
17 (b) by a practitioner, or by his or her authorized agent under
18 his or her supervision, for the purpose of, or as an incident to,
19 research, teaching, or chemical analysis and not for sale;

20 (15) Narcotic drug shall mean any of the following,
21 whether produced directly or indirectly by extraction from
22 substances of vegetable origin, independently by means of chemical
23 synthesis, or by a combination of extraction and chemical
24 synthesis: (a) Opium, opium poppy and poppy straw, coca leaves,
25 and opiates; (b) a compound, manufacture, salt, derivative, or
26 preparation of opium, coca leaves, or opiates; or (c) a substance
27 and any compound, manufacture, salt, derivative, or preparation

1 thereof which is chemically equivalent to or identical with any
2 of the substances referred to in subdivisions (a) and (b) of this
3 subdivision, except that the words narcotic drug as used in the
4 Uniform Controlled Substances Act shall not include decocainized
5 coca leaves or extracts of coca leaves, which extracts do not
6 contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

7 (16) Opiate shall mean any substance having an
8 addiction-forming or addiction-sustaining liability similar to
9 morphine or being capable of conversion into a drug having
10 such addiction-forming or addiction-sustaining liability. Opiate
11 shall not include the dextrorotatory isomer of 3-methoxy-n
12 methylmorphinan and its salts. Opiate shall include its racemic and
13 levorotatory forms;

14 (17) Opium poppy shall mean the plant of the species
15 *Papaver somniferum* L., except the seeds thereof;

16 (18) Poppy straw shall mean all parts, except the seeds,
17 of the opium poppy after mowing;

18 (19) Person shall mean any corporation, association,
19 partnership, limited liability company, or one or more individuals;

20 (20) Practitioner shall mean a physician, a physician
21 assistant, a dentist, a veterinarian, a pharmacist, a podiatrist,
22 an optometrist, a certified nurse midwife, a certified registered
23 nurse anesthetist, a nurse practitioner, a scientific investigator,
24 a pharmacy, a hospital, or any other person licensed, registered,
25 or otherwise permitted to distribute, dispense, prescribe, conduct
26 research with respect to, or administer a controlled substance in
27 the course of practice or research in this state, including an

1 emergency medical service as defined in section 71-5175;

2 (21) Production shall include the manufacture, planting,
3 cultivation, or harvesting of a controlled substance;

4 (22) Immediate precursor shall mean a substance which is
5 the principal compound commonly used or produced primarily for use
6 and which is an immediate chemical intermediary used or likely
7 to be used in the manufacture of a controlled substance, the
8 control of which is necessary to prevent, curtail, or limit such
9 manufacture;

10 (23) State shall mean the State of Nebraska;

11 (24) Ultimate user shall mean a person who lawfully
12 possesses a controlled substance for his or her own use, for the
13 use of a member of his or her household, or for administration
14 to an animal owned by him or her or by a member of his or her
15 household;

16 (25) Hospital shall have the same meaning as in section
17 71-419;

18 (26) Cooperating individual shall mean any person, other
19 than a commissioned law enforcement officer, who acts on behalf of,
20 at the request of, or as agent for a law enforcement agency for the
21 purpose of gathering or obtaining evidence of offenses punishable
22 under the Uniform Controlled Substances Act;

23 (27) Hashish or concentrated cannabis shall mean: (a) The
24 separated resin, whether crude or purified, obtained from a plant
25 of the genus cannabis; or (b) any material, preparation, mixture,
26 compound, or other substance which contains ten percent or more by
27 weight of tetrahydrocannabinols;

1 (28) Exceptionally hazardous drug shall mean (a)
2 a narcotic drug, (b) thiophene analog of phencyclidine,
3 (c) phencyclidine, (d) amobarbital, (e) secobarbital, (f)
4 pentobarbital, (g) amphetamine, or (h) methamphetamine;

5 (29) Imitation controlled substance shall mean a
6 substance which is not a controlled substance but which, by way
7 of express or implied representations and consideration of other
8 relevant factors including those specified in section 28-445,
9 would lead a reasonable person to believe the substance is a
10 controlled substance. A placebo or registered investigational drug
11 manufactured, distributed, possessed, or delivered in the ordinary
12 course of practice or research by a health care professional shall
13 not be deemed to be an imitation controlled substance;

14 (30) (a) Controlled substance analogue shall mean a
15 substance (i) the chemical structure of which is substantially
16 similar to the chemical structure of a Schedule I or Schedule
17 II controlled substance as provided in section 28-405 or (ii)
18 which has a stimulant, depressant, analgesic, or hallucinogenic
19 effect on the central nervous system that is substantially similar
20 to or greater than the stimulant, depressant, analgesic, or
21 hallucinogenic effect on the central nervous system of a Schedule I
22 or Schedule II controlled substance as provided in section 28-405.
23 A controlled substance analogue shall, to the extent intended for
24 human consumption, be treated as a controlled substance under
25 Schedule I of section 28-405 for purposes of the Uniform Controlled
26 Substances Act; and

27 (b) Controlled substance analogue shall not include (i)

1 a controlled substance, (ii) any substance generally recognized as
2 safe and effective within the meaning of the Federal Food, Drug,
3 and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on
4 January 1, 2003, (iii) any substance for which there is an approved
5 new drug application, or (iv) with respect to a particular person,
6 any substance if an exemption is in effect for investigational use
7 for that person, under section 505 of the Federal Food, Drug, and
8 Cosmetic Act, 21 U.S.C. 355, as such section existed on January
9 1, 2003, to the extent conduct with respect to such substance is
10 pursuant to such exemption;

11 (31) Anabolic steroid shall mean any drug or hormonal
12 substance, chemically and pharmacologically related to testosterone
13 (other than estrogens, progestins, and corticosteroids), that
14 promotes muscle growth and includes any controlled substance in
15 Schedule III(d) of section 28-405. Anabolic steroid shall not
16 include any anabolic steroid which is expressly intended for
17 administration through implants to cattle or other nonhuman species
18 and has been approved by the Secretary of Health and Human Services
19 for such administration, but if any person prescribes, dispenses,
20 or distributes such a steroid for human use, such person shall
21 be considered to have prescribed, dispensed, or distributed an
22 anabolic steroid within the meaning of this subdivision;

23 (32) Chart order shall mean an order for a controlled
24 substance issued by a practitioner for a patient who is in the
25 hospital where the chart is stored or for a patient receiving
26 detoxification treatment or maintenance treatment pursuant to
27 section 28-412. Chart order shall not include a prescription;

1 (33) Medical order shall mean a prescription, a
2 chart order, or an order for pharmaceutical care issued by a
3 practitioner;

4 (34) Prescription shall mean an order for a controlled
5 substance issued by a practitioner. Prescription shall not include
6 a chart order;

7 (35) Registrant shall mean any person who has a
8 controlled substances registration issued by the state or the
9 administration;

10 (36) Reverse distributor shall mean a person whose
11 primary function is to act as an agent for a pharmacy, wholesaler,
12 manufacturer, or other entity by receiving, inventorying, and
13 managing the disposition of outdated, expired, or otherwise
14 nonsaleable controlled substances;

15 (37) Signature shall mean the name, word, or mark of
16 a person written in his or her own hand with the intent to
17 authenticate a writing or other form of communication or a digital
18 signature which complies with section 86-611 or an electronic
19 signature;

20 (38) Facsimile shall mean a copy generated by a
21 system that encodes a document or photograph into electrical
22 signals, transmits those signals over telecommunications lines,
23 and reconstructs the signals to create an exact duplicate of the
24 original document at the receiving end;

25 (39) Electronic signature shall have the definition found
26 in section 86-621; and

27 (40) Electronic transmission shall mean transmission

1 of information in electronic form. Electronic transmission may
2 include computer-to-computer transmission or computer-to-facsimile
3 transmission.

4 Sec. 21. Section 28-456, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 28-456 (1) Any drug products containing
7 phenylpropanolamine, pseudoephedrine, or their salts, optical
8 isomers, or salts of such optical isomers may be sold without a
9 prescription only if they are:

10 (a) Labeled and marketed in a manner consistent with the
11 pertinent OTC Tentative Final or Final Monograph;

12 (b) Manufactured and distributed for legitimate medicinal
13 use in a manner that reduces or eliminates the likelihood of abuse;

14 (c) Packaged as follows:

15 (i) Except for liquids, sold in package sizes of
16 not more than one thousand four hundred forty milligrams of
17 pseudoephedrine base or one thousand four hundred forty milligrams
18 of phenylpropanolamine base, in blister packs, each blister
19 containing not more than two dosage units, or if the use of blister
20 packs is technically infeasible, in unit dose packets or pouches;
21 and

22 (ii) For liquids, sold in package sizes of not
23 more than one thousand four hundred forty milligrams of
24 pseudoephedrine base or one thousand four hundred forty milligrams
25 of phenylpropanolamine base;

26 (d) Sold by a person, eighteen years of age or older, in
27 the course of his or her employment to a customer, eighteen years

1 of age or older, with the following restrictions:

2 (i) No customer shall be allowed to purchase, receive,
3 or otherwise acquire more than one thousand four hundred
4 forty milligrams of pseudoephedrine base or one thousand four
5 hundred forty milligrams of phenylpropanolamine base during a
6 twenty-four-hour period; and

7 (ii) The customer shall display a valid driver's or
8 operator's license, a Nebraska state identification card, a
9 military identification card, an alien registration card, or a
10 passport as proof of identification; and

11 (e) Stored behind a counter, in an area not accessible to
12 customers, or in a locked case so that a customer needs assistance
13 from an employee to access the drug product, except that this
14 requirement does not apply to liquid pediatric formulations. For
15 the purposes of this subdivision, liquid pediatric formulation
16 means a liquid formulation with pseudoephedrine doses of fifteen
17 milligrams or less that is manufactured and marketed for children
18 twelve years of age or younger. If it is documented by a
19 law enforcement agency to the Nebraska State Patrol that a
20 liquid pediatric formulation has been found at a methamphetamine
21 manufacturing site, the patrol shall present the documentation to
22 the chief medical officer, as described in section ~~81-3201~~, 6 of
23 this act, who shall issue an order removing the exemption.

24 (2) Any person who sells drug products in violation
25 of this section may be subject to a civil penalty of fifty
26 dollars per day, and for a second or any subsequent violation,
27 the penalty may be one hundred dollars per day. Any such drug

1 products shall be seized and destroyed upon the finding of a
2 violation of this section. The department, in conjunction with
3 the Attorney General, the Nebraska State Patrol, and local law
4 enforcement agencies, shall have authority to make inspections
5 and investigations to enforce this section. In addition, the
6 department may seek injunctive relief for suspected violations of
7 this section.

8 Sec. 22. Section 28-713, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 28-713 Upon the receipt of a call reporting child abuse
11 and neglect as required by section 28-711:

12 (1) It is the duty of the law enforcement agency to
13 investigate the report, to take immediate steps to protect the
14 child, and to institute legal proceedings if appropriate. In
15 situations of alleged out-of-home child abuse or neglect if the
16 person or persons to be notified have not already been notified and
17 the person to be notified is not the subject of the report of child
18 abuse or neglect, the law enforcement agency shall immediately
19 notify the person or persons having custody of each child who has
20 allegedly been abused or neglected that such report of alleged
21 child abuse or neglect has been made and shall provide such person
22 or persons with information of the nature of the alleged child
23 abuse or neglect. The law enforcement agency may request assistance
24 from the ~~Department of Health and Human Services~~ department during
25 the investigation and shall, by the next working day, notify
26 either the hotline or the department of receipt of the report,
27 including whether or not an investigation is being undertaken by

1 the law enforcement agency. A copy of all reports, whether or not
2 an investigation is being undertaken, shall be provided to the
3 department;

4 (2) In situations of alleged out-of-home child abuse or
5 neglect if the person or persons to be notified have not already
6 been notified and the person to be notified is not the subject
7 of the report of child abuse or neglect, the department shall
8 immediately notify the person or persons having custody of each
9 child who has allegedly been abused or neglected that such report
10 of alleged child abuse or neglect has been made and shall provide
11 such person or persons with information of the nature of the
12 alleged child abuse or neglect and any other information that the
13 department deems necessary. The department shall investigate for
14 the purpose of assessing each report of child abuse or neglect to
15 determine the risk of harm to the child involved. The department
16 shall also provide such social services as are necessary and
17 appropriate under the circumstances to protect and assist the child
18 and to preserve the family;

19 (3) The department may make a request for further
20 assistance from the appropriate law enforcement agency or take
21 such legal action as may be appropriate under the circumstances;

22 (4) The department shall, by the next working day after
23 receiving a report of child abuse or neglect under subdivision
24 (1) of this section, make a written report or a summary on forms
25 provided by the department to the proper law enforcement agency in
26 the county and enter in the tracking system of child protection
27 cases maintained pursuant to section 28-715 all reports of child

1 abuse or neglect opened for investigation and any action taken; and

2 (5) The department shall, upon request, make available to
3 the appropriate investigating law enforcement agency and the county
4 attorney a copy of all reports relative to a case of suspected
5 child abuse or neglect.

6 Sec. 23. Section 28-721, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 28-721 At any time, the department may amend, expunge,
9 or remove from the central register of child protection cases
10 maintained pursuant to section 28-718 any record upon good cause
11 shown and upon notice to the subject of the report of child abuse
12 or neglect, ~~and to the division.~~

13 Sec. 24. Section 28-726, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 28-726 Except as provided in this section and sections
16 28-722 and 28-734 to 28-739, no person, official, or agency
17 shall have access to information in the tracking system of
18 child protection cases maintained pursuant to section 28-715 or
19 in records in the central register of child protection cases
20 maintained pursuant to section 28-718 unless in furtherance of
21 purposes directly connected with the administration of the Child
22 Protection Act. Such persons, officials, and agencies having access
23 to such information shall include, but not be limited to:

24 (1) A law enforcement agency investigating a report of
25 known or suspected child abuse or neglect;

26 (2) A county attorney in preparation of a child abuse or
27 neglect petition or termination of parental rights petition;

1 (3) A physician who has before him or her a child whom he
2 or she reasonably suspects may be abused or neglected;

3 (4) An agency having the legal responsibility or
4 authorization to care for, treat, or supervise an abused or
5 neglected child or a parent, a guardian, or other person
6 responsible for the abused or neglected child's welfare who is the
7 subject of the report of child abuse or neglect;

8 (5) Any person engaged in bona fide research or auditing.
9 No information identifying the subjects of the report of child
10 abuse or neglect shall be made available to the researcher or
11 auditor;

12 (6) The State Foster Care Review Board when the
13 information relates to a child in a foster care placement as
14 defined in section 43-1301. The information provided to the state
15 board shall not include the name or identity of any person making a
16 report of suspected child abuse or neglect;

17 (7) The designated protection and advocacy system
18 authorized pursuant to the Developmental Disabilities Assistance
19 and Bill of Rights Act of 2000, 42 U.S.C. 15001, as the act
20 existed on January 1, 2005, and the Protection and Advocacy for
21 Mentally Ill Individuals Act, 42 U.S.C. 10801, as the act existed
22 on September 1, 2001, acting upon a complaint received from or
23 on behalf of a person with developmental disabilities or mental
24 illness;

25 (8) The person or persons having custody of the abused or
26 neglected child in situations of alleged out-of-home child abuse or
27 neglect; and

1 (9) For purposes of licensing providers of child care
2 programs, the Department of Health and Human Services, ~~Regulation~~
3 ~~and Licensure.~~

4 Sec. 25. Section 28-728, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 28-728 (1) The Legislature finds that child abuse
7 and neglect are community problems requiring a cooperative
8 complementary response by law enforcement, child advocacy centers,
9 prosecutors, the Department of Health and Human Services, ~~child~~
10 ~~protective services division,~~ and other agencies or entities
11 designed to protect children. It is the intent of the Legislature
12 to create a child abuse and neglect investigation team in each
13 county or contiguous group of counties and to create a child abuse
14 and neglect treatment team in each county or contiguous group of
15 counties.

16 (2) Each county or contiguous group of counties will
17 be assigned by the Department of Health and Human Services
18 to a child advocacy center. The purpose of a child advocacy
19 center is to provide a child-focused response to support the
20 physical, emotional, and psychological needs of children who are
21 victims of abuse or neglect. Each child advocacy center shall
22 meet accreditation criteria set forth by the National Children's
23 Alliance. Nothing in this section shall prevent a child from
24 receiving treatment or other services at a child advocacy center
25 which has received or is in the process of receiving accreditation.

26 (3) Each county attorney or the county attorney
27 representing a contiguous group of counties is responsible

1 for convening the child abuse and neglect investigation team
2 and ensuring that protocols are established and implemented.

3 A representative of the child advocacy center assigned to the
4 team shall assist the county attorney in facilitating case
5 review, developing and updating protocols, and arranging training
6 opportunities for the team. Each team must have protocols which, at
7 a minimum, shall include procedures for:

8 (a) Conducting joint investigations of child abuse and
9 other child abuse and neglect matters which the team deems
10 necessary;

11 (b) Ensuring that a law enforcement agency will
12 participate in the investigation;

13 (c) Conducting joint investigations of other child abuse
14 and neglect matters which the team deems necessary;

15 (d) Arranging for a videotaped forensic interview at
16 a child advocacy center for children sixteen years of age or
17 younger who are alleging sexual abuse or serious physical abuse or
18 neglect or who have witnessed a violent crime, been removed from a
19 clandestine drug lab, or been recovered from a kidnapping;

20 (e) Reducing the risk of harm to child abuse and neglect
21 victims;

22 (f) Ensuring that the child is in safe surroundings,
23 including removing the perpetrator when necessary;

24 (g) Sharing of case information;

25 (h) How and when the team will meet; and

26 (i) Responding to drug-endangered children.

27 (4) Each county attorney or the county attorney

1 representing a contiguous group of counties is responsible for
2 convening the child abuse and neglect treatment team and ensuring
3 that protocols are established and implemented. A representative
4 of the child advocacy center appointed to the team shall assist
5 the county attorney in facilitating case review, developing and
6 updating protocols, and arranging training opportunities for the
7 team. Each team must have protocols which, at a minimum, shall
8 include procedures for:

9 (a) Case coordination and assistance, including the
10 location of services available within the area;

11 (b) Case staffings and the coordination, development,
12 implementation, and monitoring of treatment plans;

13 (c) Reducing the risk of harm to child abuse and neglect
14 victims;

15 (d) Assisting those child abuse and neglect victims who
16 are abused and neglected by perpetrators who do not reside in their
17 homes;

18 (e) How and when the team will meet; and

19 (f) Working with multiproblem delinquent youth.

20 Sec. 26. Section 28-734, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 28-734 For purposes of sections 28-734 to 28-739:

23 (1) Child fatality means the death of a child from
24 suspected abuse, neglect, or maltreatment as determined by the
25 county coroner or county attorney;

26 (2) Department means the Department of Health and Human
27 Services;

1 ~~(2)~~ (3) Findings and information means a written summary
2 as described in section 28-736; and

3 ~~(3)~~ (4) Near fatality means a case in which an examining
4 physician determines that a child is in serious or critical
5 condition as the result of sickness or injury caused by suspected
6 abuse, neglect, or maltreatment.

7 Sec. 27. Section 28-735, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 28-735 Notwithstanding any other provision of law and
10 subject to sections 28-734 to 28-739, the ~~Department of Health~~
11 ~~and Human Services~~ department shall disclose to the public, upon
12 request, a summary of the findings and information related to a
13 child fatality or near fatality if:

14 (1) A person is criminally charged with having caused the
15 child fatality or near fatality and is convicted or acquitted of
16 the charged offense or a lesser offense; or

17 (2) A county attorney certifies that a person would have
18 been charged with having caused the child fatality or near fatality
19 but for that person's prior death.

20 Sec. 28. Section 28-736, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 28-736 Findings and information disclosed pursuant to
23 section 28-735 shall consist of a written summary that includes any
24 of the following information the ~~Department of Health and Human~~
25 ~~Services~~ department is able to provide:

26 (1) The dates, outcomes, and results of any actions taken
27 or services rendered by the department; and

1 (2) Confirmation of the receipt of all reports, accepted
2 or not accepted, by the local office of the ~~Department of~~
3 ~~Health and Human Services~~ department for assessment of suspected
4 child abuse, neglect, or maltreatment, including confirmation that
5 investigations were conducted, the results of the investigations,
6 a description of the conduct of the most recent investigation
7 and the services rendered, and a statement of the basis for the
8 department's determination.

9 This section does not authorize access to confidential
10 records in the custody of the department or disclosure to
11 the public of the records or the content of any psychiatric,
12 psychological, or therapeutic evaluations or of information that
13 would reveal the identities of persons who provided information
14 related to suspected child abuse, neglect, or maltreatment.

15 Sec. 29. Section 28-737, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 28-737 Within five working days after receipt of a
18 request for a summary of the findings and information related
19 to a child fatality or near fatality, the ~~Department of Health~~
20 ~~and Human Services~~ department shall consult with the appropriate
21 county attorney and provide the findings and information unless the
22 department or county attorney has reasonable cause to believe that
23 the release of the information:

24 (1) Is not authorized by section 28-735;

25 (2) Is likely to cause mental, emotional, or physical
26 harm or danger to a minor child residing in the household of the
27 deceased or injured child or who is the sibling of the deceased or

1 injured child;

2 (3) Is the subject of an ongoing or future criminal
3 investigation or prosecution;

4 (4) Is not authorized by federal law and regulations; or

5 (5) Could result in physical or emotional harm to an
6 individual.

7 Sec. 30. Section 28-738, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 28-738 A person whose request under section 28-737 is
10 denied may apply to the district court of Lancaster County for
11 an order compelling disclosure of a summary of the findings
12 and information by the ~~Department of Health and Human Services-~~
13 department. The application shall set forth with reasonable
14 particularity factors supporting the application. Actions under
15 this section shall be set for immediate hearing, and subsequent
16 proceedings in such actions shall be accorded priority by the
17 appellate courts. After the district court has reviewed the
18 specific findings and information in camera, the court shall issue
19 an order compelling disclosure unless the court finds that one or
20 more of the circumstances set out in section 28-737 exist.

21 Sec. 31. Section 29-2929, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 29-2929 (1) The inpatient treatment program operated by
24 the Department of Health and Human Services shall conduct annual
25 reviews of each convicted sex offender in the program and submit
26 annual progress reports to the Department of Correctional Services.

27 (2) If the offender is uncooperative while in the

1 inpatient treatment program or is found not to be amenable to
2 treatment, the ~~Director~~ Department of Health and Human Services
3 shall cause the offender to be returned to the Department of
4 Correctional Services in accordance with procedures established by
5 the Department of Health and Human Services. The Department of
6 Correctional Services shall be responsible for physical transfer
7 of the offender from the inpatient treatment facility to the
8 Department of Correctional Services. The Department of Health
9 and Human Services shall, at the time of the transfer, provide
10 the Department of Correctional Services a report summarizing the
11 offender's response to and progress while in treatment and the
12 reasons for the transfer and shall provide access to the treatment
13 records as requested by the Department of Correctional Services.

14 (3) All days of confinement in a treatment program
15 operated by the Department of Health and Human Services shall be
16 credited to the offender's term of imprisonment.

17 Sec. 32. Section 29-4125, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 29-4125 (1) Notwithstanding any other provision of law
20 and subject to subsection (2) or (4) of this section, state
21 agencies and political subdivisions shall preserve any biological
22 material secured in connection with a criminal case for such period
23 of time as any person remains incarcerated in connection with that
24 case.

25 (2) State agencies or political subdivisions that have
26 secured biological material for use in criminal cases may dispose
27 of biological material before expiration of the period of time

1 specified in subsection (1) of this section if:

2 (a) The state agency or political subdivision which
3 secured the biological material for use in a criminal case notifies
4 any person who remains incarcerated in connection with the case,
5 such person's counsel of record, or if there is no counsel of
6 record, the public defender, if applicable, in the county in which
7 the judgment of conviction of such person was entered. The notice
8 shall include:

9 (i) The intention of the state agency or political
10 subdivision to dispose of the material after ninety days after
11 receipt of the notice; and

12 (ii) The provisions of the DNA Testing Act;

13 (b) The person, such person's counsel of record, or the
14 public defender does not file a motion under section 29-4120 within
15 ninety days after receipt of notice under this section; and

16 (c) No other provision of law or court order requires
17 that such biological material be preserved.

18 (3) The person, such person's counsel of record, or the
19 public defender who receives notice under subdivision (2)(a) of
20 this section, may, in lieu of a motion under section 29-4120,
21 request in writing to take possession of the biological material
22 for the purpose of having the material available for any future
23 discovery of scientific or forensic techniques. Copies of any
24 such written request shall be provided to both the court and to
25 the county attorney. The costs of acquisition, preservation, and
26 storage of any such material shall be at the expense of the person.

27 (4) The Department of Health and Human Services

1 ~~Regulation and Licensure~~ shall preserve biological material
2 obtained for the purpose of determining the concentration of
3 alcohol in a person's blood for two years unless a request is made
4 for the retention of such material beyond such period in connection
5 with a pending legal action.

6 Sec. 33. Section 30-2487, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 30-2487 (a) If the applicable assets of the estate are
9 insufficient to pay all claims in full, the personal representative
10 shall make payment in the following order:

- 11 (1) Costs and expenses of administration;
- 12 (2) Reasonable funeral expenses;
- 13 (3) Debts and taxes with preference under federal law;
- 14 (4) Reasonable and necessary medical and hospital
15 expenses of the last illness of the decedent, including
16 compensation of persons attending the decedent and claims filed by
17 the Department of Health and Human Services ~~Finance and Support~~
18 pursuant to section 68-919;
- 19 (5) Debts and taxes with preference under other laws of
20 this state;
- 21 (6) All other claims.

22 (b) No preference shall be given in the payment of any
23 claim over any other claim of the same class, and a claim due and
24 payable shall not be entitled to a preference over claims not due.

25 Sec. 34. Section 31-740, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 31-740 (1) The board of trustees or the administrator

1 of any district organized under sections 31-727 to 31-762
2 shall have power to provide for establishing, maintaining, and
3 constructing gas and electric service lines and conduits, an
4 emergency management warning system, water mains, sewers, and
5 disposal plants and disposing of drainage, waste, and sewage
6 of such district in a satisfactory manner; for establishing,
7 maintaining, and constructing sidewalks, public roads, streets,
8 and highways, including grading, changing grade, paving, repaving,
9 graveling, regravelling, widening, or narrowing roads, resurfacing
10 or relaying existing pavement, or otherwise improving any road,
11 street, or highway within the district, including protecting
12 existing sidewalks, streets, highways, and roads from floods or
13 erosion which has moved within fifteen feet from the edge of
14 such sidewalks, streets, highways, or roads, regardless of whether
15 such flooding or erosion is of natural or artificial origin;
16 for establishing, maintaining, and constructing public waterways,
17 docks, or wharfs, and related appurtenances; and for constructing
18 and contracting for the construction of dikes and levees for flood
19 protection for the district.

20 (2) The board of trustees or the administrator of any
21 district may contract for electricity for street lighting for
22 the public streets and highways within the district and shall
23 have power to provide for building, acquisition, improvement,
24 maintenance, and operation of public parks, playgrounds, and
25 recreational facilities, and, when permitted by section 31-727,
26 for contracting with other sanitary and improvement districts for
27 the building, acquisition, improvement, maintenance, and operation

1 of public parks, playgrounds, and recreational facilities for the
2 joint use of the residents of the contracting districts, and for
3 contracting for any public purpose specifically authorized in this
4 section. Power to construct clubhouses and similar facilities for
5 the giving of private parties within the zoning jurisdiction of
6 any city or village is not included in the powers granted in this
7 section. Any sewer system established shall be approved by the
8 Department of Health and Human Services. ~~Regulation and Licensure.~~

9 (3) Prior to the installation of any of the improvements
10 or services provided for in this section, the plans or contracts
11 for such improvements or services, other than for public parks,
12 playgrounds, and recreational facilities, whether a district acts
13 separately or jointly with other districts as permitted by section
14 31-727, shall be approved by the public works department of
15 any municipality when such improvements or any part thereof or
16 services are within the area of the zoning jurisdiction of such
17 municipality. If such improvements or services are without the
18 area of the zoning jurisdiction of any municipality, plans for
19 such improvements shall be approved by the county board of the
20 county in which such improvements are located. Plans and exact
21 costs for public parks, playgrounds, and recreational facilities
22 shall be approved by resolution of the governing body of such
23 municipality or county after a public hearing. Purchases of public
24 parks, playgrounds, and recreational facilities so approved may be
25 completed and shall be valid notwithstanding any interest of any
26 trustee of the district in the transaction. Such approval shall
27 relate to conformity with the master plan and the construction

1 specifications and standards established by such municipality
2 or county. When no master plan and construction specifications
3 and standards have been established, such approval shall not be
4 required. When such improvements are within the area of the zoning
5 jurisdiction of more than one municipality, such approval shall be
6 required only from the most populous municipality, except that when
7 such improvements are furnished to the district by contract with a
8 particular municipality, the necessary approval shall in all cases
9 be given by such municipality. The municipality or county shall be
10 required to approve plans for such improvements and shall enforce
11 compliance with such plans by action in equity.

12 (4) The district may construct its sewage disposal plant
13 and other sewerage or water improvements, or both, in whole or
14 in part, inside or outside the boundaries of the district and may
15 contract with corporations or municipalities for disposal of sewage
16 and use of existing sewerage improvements and for a supply of water
17 for fire protection and for resale to residents of the district.
18 It may also contract with any corporation, public power district,
19 electric membership or cooperative association, or municipality for
20 the installation, maintenance, and cost of operating a system of
21 street lighting upon the public streets and highways within the
22 district, for installation, maintenance, and operation of a water
23 system, or for the installation, maintenance, and operation of
24 electric service lines and conduits, and to provide water service
25 for fire protection and use by the residents of the district.
26 It may also contract with any corporation, municipality, or other
27 sanitary and improvement district, as permitted by section 31-727,

1 for building, acquiring, improving, and operating public parks,
2 playgrounds, and recreational facilities for the joint use of the
3 residents of the contracting parties. It may also contract with
4 a county within which all or a portion of such sanitary and
5 improvement district is located or a city within whose zoning
6 jurisdiction the sanitary and improvement district is located for
7 intersection and traffic control improvements, which improvements
8 serve or benefit the district and which may be within or without
9 the corporate boundaries of the district, and for any public
10 purpose specifically authorized in this section.

11 (5) Each sanitary and improvement district shall have the
12 books of account kept by the board of trustees of the district
13 examined and audited by a certified public accountant or a public
14 accountant for the year ending June 30 and shall file a copy of the
15 audit with the office of the Auditor of Public Accounts by December
16 31 of the same year. Such audits may be waived by the Auditor of
17 Public Accounts upon proper showing by the district that the audit
18 is unnecessary. Such examination and audit shall show (a) the gross
19 income of the district from all sources for the previous year,
20 (b) the amount spent for sewage disposal, (c) the amount expended
21 on water mains, (d) the gross amount of sewage processed in the
22 district, (e) the cost per thousand gallons of processing sewage,
23 (f) the amount expended each year for (i) maintenance and repairs,
24 (ii) new equipment, (iii) new construction work, and (iv) property
25 purchased, (g) a detailed statement of all items of expense, (h)
26 the number of employees, (i) the salaries and fees paid employees,
27 (j) the total amount of taxes levied upon the property within the

1 district, and (k) all other facts necessary to give an accurate
2 and comprehensive view of the cost of carrying on the activities
3 and work of such sanitary and improvement district. The reports
4 of all audits provided for in this section shall be and remain a
5 part of the public records in the office of the Auditor of Public
6 Accounts. The expense of such audits shall be paid out of the
7 funds of the district. The Auditor of Public Accounts shall be
8 given access to all books and papers, contracts, minutes, bonds,
9 and other documents and memoranda of every kind and character of
10 such district and be furnished all additional information possessed
11 by any present or past officer or employee of any such district,
12 or by any other person, that is essential to the making of a
13 comprehensive and correct audit.

14 (6) If any sanitary and improvement district fails or
15 refuses to cause such annual audit to be made of all of
16 its functions, activities, and transactions for the fiscal year
17 within a period of six months following the close of such fiscal
18 year, unless such audit has been waived, the Auditor of Public
19 Accounts shall, after due notice and a hearing to show cause by
20 such district, appoint a certified public accountant or public
21 accountant to conduct the annual audit of the district and the fee
22 for such audit shall become a lien against the district.

23 (7) Whenever the sanitary sewer system or any part
24 thereof of a sanitary and improvement district is directly or
25 indirectly connected to the sewerage system of any city, such
26 city, without enacting an ordinance or adopting any resolution for
27 such purpose, may collect such city's applicable rental or use

1 charge from the users in the sanitary and improvement district and
2 from the owners of the property served within the sanitary and
3 improvement district. The charges of such city shall be charged to
4 each property served by the city sewerage system, shall be a lien
5 upon the property served, and may be collected from the owner or
6 the person, firm, or corporation using the service. If the city's
7 applicable rental or service charge is not paid when due, such sum
8 may be recovered by the municipality in a civil action or it may be
9 assessed against the premises served in the same manner as special
10 taxes or assessments are assessed by such city and collected
11 and returned in the same manner as other municipal special taxes
12 or assessments are enforced and collected. When any such tax or
13 assessment is levied, it shall be the duty of the city clerk to
14 deliver a certified copy of the ordinance to the county treasurer
15 of the county in which the premises assessed are located and such
16 county treasurer shall collect the same as provided by law and
17 return the same to the city treasurer. Funds of such city raised
18 from such charges shall be used by it in accordance with laws
19 applicable to its sewer service rental or charges. The governing
20 body of any city may make all necessary rules and regulations
21 governing the direct or indirect use of its sewerage system by
22 any user and premises within any sanitary and improvement district
23 and may establish just and equitable rates or charges to be paid
24 to such city for use of any of its disposal plants and sewerage
25 system. The board of trustees shall have power, in connection with
26 the issuance of any warrants or bonds of the district, to agree to
27 make a specified minimum levy on taxable property in the district

1 to pay, or to provide a sinking fund to pay, principal and interest
2 on warrants and bonds of the district for such number of years
3 as the board may establish at the time of making such agreement
4 and shall also have power to agree to enforce, by foreclosure
5 or otherwise as permitted by applicable laws, the collection of
6 special assessments levied by the district. Such agreements may
7 contain provisions granting to creditors and others the right to
8 enforce and carry out the agreements on behalf of the district and
9 its creditors.

10 (8) The board of trustees or administrator shall have
11 power to sell and convey real and personal property of the district
12 on such terms as it or he or she shall determine, except that real
13 estate shall be sold to the highest bidder at public auction after
14 notice of the time and place of the sale has been published for
15 three consecutive weeks prior to the sale in a newspaper of general
16 circulation in the county. The board of trustees or administrator
17 may reject such bids and negotiate a sale at a price higher than
18 the highest bid at the public auction at such terms as may be
19 agreed.

20 Sec. 35. Section 32-310, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 32-310 (1) The State Department of Education, and the
23 Department of Health and Human Services, ~~the Department of Health~~
24 ~~and Human Services Regulation and Licensure,~~ and the Department of
25 Health and Human Services Finance and Support shall provide the
26 opportunity to register to vote at the time of application, review,
27 or change of address for the following programs, as applicable:

1 (a) The food stamp program; (b) the medicaid program; (c) the WIC
2 program as defined in section 71-2225; (d) the aid to dependent
3 children program; (e) the vocational rehabilitation program; and
4 (f) any other public assistance program or program primarily for
5 the purpose of providing services to persons with disabilities.
6 If the application, review, or change of address is accomplished
7 through an agent or contractor of the department, the agent or
8 contractor shall provide the opportunity to register to vote.
9 Any information on whether an applicant registers or declines
10 to register and the agency at which he or she registers shall
11 be confidential and shall only be used for voter registration
12 purposes.

13 (2) The department, agent, or contractor shall make
14 the mail-in registration application described in section 32-320
15 available at the time of application, review, or change of address
16 and shall provide assistance, if necessary, to the applicant in
17 completing the application to register to vote. The department
18 shall retain records indicating whether an applicant accepted or
19 declined the opportunity to register to vote.

20 (3) Department personnel, agents, and contractors
21 involved in the voter registration process pursuant to this section
22 shall not be considered deputy registrars or agents or employees of
23 the election commissioner or county clerk.

24 (4) The applicant may return the completed voter
25 registration application to the department, agent, or contractor
26 or may personally mail or deliver the application to the election
27 commissioner or county clerk as provided in section 32-321. If

1 the applicant returns the completed application to the department,
2 agent, or contractor, the department, agent, or contractor shall
3 deliver the application to the election commissioner or county
4 clerk of the county in which the office of the department, agent,
5 or contractor is located not later than ten days after receipt
6 by the department, agent, or contractor, except that if the
7 application is returned to the department, agent, or contractor
8 within five days prior to the third Friday preceding any election,
9 it shall be delivered not later than five days after the date it
10 is returned. The election commissioner or county clerk shall, if
11 necessary, forward the application to the election commissioner or
12 county clerk of the county in which the applicant resides within
13 such prescribed time limits. The application shall be completed
14 and returned to the department, agency, or contractor by the close
15 of business on the third Friday preceding any election to be
16 registered to vote at such election. A registration application
17 received after the deadline shall not be processed by the election
18 commissioner or county clerk until after the election.

19 (5) The departments shall adopt and promulgate rules and
20 regulations to ensure compliance with this section.

21 Sec. 36. Section 32-327, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 32-327 The election commissioner or county clerk may
24 at any time remove from the voter registration register a voter
25 registration of a deceased person when the election commissioner
26 or county clerk has any supporting information of the death of
27 such voter. The Department of Health and Human Services ~~Finance and~~

1 ~~Support~~ shall provide, at cost, a record of the deaths of residents
2 which occur in each county every three months to the appropriate
3 election commissioner or county clerk.

4 Sec. 37. Section 37-1254.05, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 37-1254.05 Except as provided in section 37-1254.03, any
7 test made pursuant to section 37-1254.02, if made in conformance
8 with the requirements of this section, shall be competent evidence
9 in any prosecution under a state law or city or village ordinance
10 regarding the actual physical control of any motorboat under
11 propulsion upon the waters of this state while under the influence
12 of alcohol or regarding the actual physical control of any
13 motorboat under propulsion upon the waters of this state when
14 the concentration of alcohol in the blood or breath is in excess
15 of allowable levels in violation of section 37-1254.01 or a city
16 or village ordinance. To be considered valid, tests shall have
17 been performed according to methods approved by the Department
18 of Health and Human Services ~~Regulation and Licensure~~ and by an
19 individual possessing a valid permit issued by the department for
20 such purpose. The department may approve satisfactory techniques
21 or methods and ascertain the qualifications and competence of
22 individuals to perform such tests and may issue permits which shall
23 be subject to termination or revocation at the discretion of the
24 department.

25 The permit fee may be established by rules and
26 regulations adopted and promulgated by the department, which fee
27 shall not exceed the actual cost of processing the initial permit.

1 Such fee shall be charged annually to each permitholder. The fees
2 shall be used to defray the cost of processing and issuing the
3 permits and other expenses incurred by the department in carrying
4 out this section. The fee shall be deposited in the state treasury
5 and credited to the ~~Department of Health and Human Services~~
6 ~~Regulation and Licensure~~ Health and Human Services Cash Fund as a
7 laboratory service fee.

8 Sec. 38. Section 37-1254.06, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 37-1254.06 (1) Any physician, registered nurse, other
11 trained person employed by a licensed health care facility or
12 health care service defined in the Health Care Facility Licensure
13 Act, a clinical laboratory certified pursuant to the federal
14 Clinical Laboratories Improvement Act of 1967, as amended, or Title
15 XVIII or XIX of the federal Social Security Act, as amended, to
16 withdraw human blood for scientific or medical purposes, or a
17 hospital shall be an agent of the State of Nebraska when performing
18 the act of withdrawing blood at the request of a peace officer
19 pursuant to section 37-1254.02. The state shall be liable in
20 damages for any illegal or negligent acts or omissions of such
21 agents in performing the act of withdrawing blood. The agent shall
22 not be individually liable in damages or otherwise for any act
23 done or omitted in performing the act of withdrawing blood at the
24 request of a peace officer pursuant to such section except for acts
25 of willful, wanton, or gross negligence of the agent or of persons
26 employed by such agent.

27 (2) Any person listed in subsection (1) of this section

1 withdrawing a blood specimen for purposes of section 37-1254.02
2 shall, upon request, furnish to any law enforcement agency or the
3 person being tested a certificate stating that such specimen was
4 taken in a medically acceptable manner. The certificate shall be
5 signed under oath before a notary public and shall be admissible
6 in any proceeding as evidence of the statements contained in the
7 certificate. The form of the certificate shall be prescribed by the
8 Department of Health and Human Services ~~Regulation and Licensure~~
9 and such forms shall be made available to the persons listed in
10 subsection (1) of this section.

11 Sec. 39. Section 42-106, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 42-106 When an application is made for a license to the
14 county clerk, he or she shall, upon the granting of such license,
15 state in the license the information contained in the application
16 as provided in section 42-104. The license shall, prior to the
17 issuing thereof, be entered of record in the office of the county
18 clerk in a suitable book to be provided for that purpose.

19 The forms for the application, license, and certificate
20 of marriage shall be provided by the Department of Health and Human
21 Services ~~Finance and Support~~ at actual cost as determined by the
22 department.

23 Sec. 40. Section 42-347, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 42-347 For purposes of sections 42-347 to 42-381, unless
26 the context otherwise requires:

27 (1) Authorized attorney shall mean an attorney (a)

1 employed by the county subject to the approval of the county
2 board, (b) employed by the Department of Health and Human Services,
3 or (c) appointed by the court, who is authorized to investigate and
4 prosecute child and spousal support cases. An authorized attorney
5 shall represent the state as provided in section 43-512.03;

6 (2) Dissolution of marriage shall mean the termination
7 of a marriage by decree of a court of competent jurisdiction
8 upon a finding that the marriage is irretrievably broken. The
9 term dissolution of marriage shall be considered synonymous with
10 divorce, and whenever the term divorce appears in the statutes it
11 shall mean dissolution of marriage pursuant to sections 42-347 to
12 42-381;

13 (3) Legal separation shall mean a decree of a court
14 of competent jurisdiction providing that two persons who have
15 been legally married shall thereafter live separate and apart and
16 providing for any necessary adjustment of property, support, and
17 custody rights between the parties but not dissolving the marriage;

18 (4) Spousal support, when used in the context of income
19 withholding or any provisions of law which might lead to income
20 withholding, shall mean alimony or maintenance support for a spouse
21 or former spouse when ordered as a part of an order, decree, or
22 judgment which provides for child support and the child and spouse
23 or former spouse are living in the same household;

24 (5) State Disbursement Unit has the same meaning as in
25 section 43-3341; and

26 (6) Support order has the same meaning as in section
27 43-1717.

1 Sec. 41. Section 42-358, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 42-358 (1) The court may appoint an attorney to protect
4 the interests of any minor children of the parties. Such attorney
5 shall be empowered to make independent investigations and to cause
6 witnesses to appear and testify on matters pertinent to the welfare
7 of the children. The court shall by order fix the fee, including
8 disbursements, for such attorney, which amount shall be taxed as
9 costs and paid by the parties as ordered. If the court finds that
10 the party responsible is indigent, the court may order the county
11 to pay the costs.

12 (2) Following entry of any decree, the court having
13 jurisdiction over the minor children of the parties may at any time
14 appoint an attorney, as friend of the court, to initiate contempt
15 proceedings for failure of any party to comply with an order
16 of the court directing such party to pay temporary or permanent
17 child support. The county attorney or authorized attorney may be
18 appointed by the court for the purposes provided in this section,
19 in which case the county attorney or authorized attorney shall
20 represent the state.

21 (3) The clerk of each district court shall maintain
22 records of support orders. The Title IV-D Division of the
23 Department of Health and Human Services shall maintain support
24 order payment records pursuant to section 43-3342.01 and the clerk
25 of each district court shall maintain records of payments received
26 pursuant to sections 42-369 and 43-3342.01. For support orders in
27 all cases issued before September 6, 1991, and for support orders

1 issued or modified on or after September 6, 1991, in cases in
2 which no party has applied for services under Title IV-D of the
3 federal Social Security Act, as amended, each month the Title IV-D
4 Division shall certify all cases in which the support order payment
5 is delinquent in an amount equal to the support due and payable for
6 a one-month period of time. The Title IV-D Division shall provide
7 the case information in electronic format, and upon request in
8 print format, to the judge presiding over domestic relations cases
9 and to the county attorney or authorized attorney. A rebuttable
10 presumption of contempt shall be established if a prima facie
11 showing is made that the court-ordered child or spousal support is
12 delinquent. In cases in which one of the parties receives services
13 under Title IV-D of the federal Social Security Act, as amended,
14 the Title IV-D Division shall certify all such delinquent support
15 order payments to the county attorney or the authorized attorney.

16 In each case certified, if income withholding has not
17 been implemented it shall be implemented pursuant to the Income
18 Withholding for Child Support Act. If income withholding is not
19 feasible and no other action is pending for the collection of
20 support payments, the court shall appoint an attorney to commence
21 contempt of court proceedings. If the county attorney or authorized
22 attorney consents, he or she may be appointed for such purpose. The
23 contempt proceeding shall be instituted within ten days following
24 appointment, and the case shall be diligently prosecuted to
25 completion. The court shall by order fix the fee, including
26 disbursements, for such attorney, which amount shall be taxed as
27 costs and paid by the parties as ordered. Any fees allowed for

1 the services of any county attorney or authorized attorney shall
2 be paid to the Department of Health and Human Services when there
3 is an assignment of support to the department pursuant to section
4 43-512.07 or when an application for child support services is on
5 file with a county attorney or authorized attorney. If the court
6 finds the party responsible is indigent, the court may order the
7 county to pay the costs.

8 (4) If, at the hearing, the person owing child or spousal
9 support is called for examination as an adverse party and such
10 person refuses to answer upon the ground that his or her testimony
11 may be incriminating, the court may, upon the motion of the county
12 attorney or authorized attorney, require the person to answer and
13 produce the evidence. In such a case the evidence produced shall
14 not be admissible in any criminal case against such person nor
15 shall any evidence obtained because of the knowledge gained by such
16 evidence be so admissible.

17 (5) The court may order access to all revenue information
18 maintained by the Department of Revenue or other agencies
19 concerning the income of persons liable or who pursuant to this
20 section and sections 42-358.08 and 42-821 may be found liable to
21 pay child or spousal support payments.

22 (6) Any person aggrieved by a determination of the court
23 may appeal such decision to the Court of Appeals.

24 Sec. 42. Section 42-358.01, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 42-358.01 Records of delinquencies in support order
27 payments shall be kept by the Title IV-D Division of the Department

1 of Health and Human Services or by the clerks of the district
2 courts pursuant to their responsibilities under law.

3 Sec. 43. Section 42-358.02, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 42-358.02 (1) All delinquent child support payments shall
6 draw interest at the rate specified in section 45-103 in effect on
7 the date of the most recent order or decree. Such interest shall be
8 computed as simple interest.

9 (2) All child support payments shall become delinquent
10 the day after they are due and owing, except that no obligor whose
11 child support payments are automatically withheld from his or her
12 paycheck shall be regarded or reported as being delinquent or in
13 arrears if (a) any delinquency or arrearage is solely caused by a
14 disparity between the schedule of the obligor's regular pay dates
15 and the scheduled date the child support is due, (b) the total
16 amount of child support to be withheld from the paychecks of the
17 obligor and the amount ordered by the support order are the same
18 on an annual basis, and (c) the automatic deductions for child
19 support are continuous and occurring. Interest shall not accrue
20 until thirty days after such payments are delinquent.

21 (3) The court shall order the determination of the amount
22 of interest due, and such interest shall be payable in the same
23 manner as the support payments upon which the interest accrues
24 subject to subsection (2) of this section or unless it is waived
25 by agreement of the parties. The Title IV-D Division of the
26 Department of Health and Human Services shall compute interest and
27 identify delinquencies pursuant to this section on the payments

1 received by the State Disbursement Unit pursuant to section 42-369.
2 The Title IV-D Division shall provide the case information in
3 electronic format, and upon request in print format, to the judge
4 presiding over domestic relations cases and to the county attorney
5 or authorized attorney.

6 (4) Support order payments shall be credited in the
7 following manner:

8 (a) First, to the payments due for the current month in
9 the following order: Child support payments, then spousal support
10 payments, and lastly medical support payments;

11 (b) Second, toward any payment arrearage owing, in the
12 following order: Child support payment arrearage, then spousal
13 support payment arrearage, and lastly medical support payment
14 arrearage; and

15 (c) Third, toward the interest on any payment arrearage,
16 in the following order: Child support payment arrearage interest,
17 then spousal support payment arrearage interest, and lastly medical
18 support payment arrearage interest.

19 (5) Interest which may have accrued prior to September
20 6, 1991, shall not be affected or altered by changes to this
21 section which take effect on such date. All delinquent child
22 support payments and all decrees entered prior to such date shall
23 draw interest at the effective rate as prescribed by this section
24 commencing as of such date.

25 Sec. 44. Section 42-364.13, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 42-364.13 (1) Any order for support entered by the

1 court shall specifically provide that any person ordered to pay a
2 judgment shall be required to furnish to the clerk of the district
3 court his or her address, telephone number, and social security
4 number, the name of his or her employer, whether or not such
5 person has access to employer-related health insurance coverage
6 and, if so, the health insurance policy information, and any other
7 information the court deems relevant until such judgment is paid
8 in full. The person shall also be required to advise the clerk of
9 any changes in such information between the time of entry of the
10 decree and the payment of the judgment in full. If both parents
11 are parties to the action, such order shall provide that each be
12 required to furnish to the clerk of the district court all of the
13 information required by this subsection. Failure to comply with
14 this section shall be punishable by contempt.

15 (2) All support orders entered by the court shall include
16 the birthdate of any child for whom the order requires the
17 provision of support.

18 (3) Until the Title IV-D Division of the Department of
19 Health and Human Services has operative the statewide automated
20 data processing and retrieval system necessary for centralized
21 collection and disbursement of support order payments:

22 (a) If any case contains an order or judgment for child,
23 medical, or spousal support, the order shall include the following
24 statements:

25 In the event that the (plaintiff or defendant) fails to
26 pay any child, medical, or spousal support payment, as such failure
27 is certified each month by the district court clerk in cases in

1 which court-ordered support is delinquent in an amount equal to
2 the support due and payable for a one-month period of time, he
3 or she shall be subject to income withholding and may be required
4 to appear in court on a date to be determined by the court and
5 show cause why such payment was not made. In the event that the
6 (plaintiff or defendant) fails to pay and appear as ordered, a
7 warrant shall be issued for his or her arrest.

8 (b) If the court orders income withholding regardless
9 of whether or not payments are in arrears pursuant to section
10 43-1718.01 or 43-1718.02, the statement in this subsection may be
11 altered to read as follows:

12 In the event that the (plaintiff or defendant) fails to
13 pay any child, medical, or spousal support payment, as such failure
14 is certified each month by the district court clerk in cases in
15 which court-ordered support is delinquent in an amount equal to the
16 support due and payable for a one-month period of time, he or she
17 may be required to appear in court on a date to be determined by
18 the court and show cause why such payment was not made. In the
19 event that the (plaintiff or defendant) fails to pay and appear as
20 ordered, a warrant shall be issued for his or her arrest.

21 (4) When the Title IV-D Division of the Department of
22 Health and Human Services has operative the statewide automated
23 data processing and retrieval system necessary for centralized
24 collection and disbursement of support order payments:

25 (a) If any case contains an order or judgment for child,
26 medical, or spousal support, the order shall include the following
27 statements:

1 In the event that the (plaintiff or defendant) fails to
2 pay any child, medical, or spousal support payment, as such failure
3 is certified each month by the State Disbursement Unit in cases
4 in which court-ordered support is delinquent in an amount equal
5 to the support due and payable for a one-month period of time, he
6 or she shall be subject to income withholding and may be required
7 to appear in court on a date to be determined by the court and
8 show cause why such payment was not made. In the event that the
9 (plaintiff or defendant) fails to pay and appear as ordered, a
10 warrant shall be issued for his or her arrest.

11 (b) If the court orders income withholding regardless
12 of whether or not payments are in arrears pursuant to section
13 43-1718.01 or 43-1718.02, the statement in this subsection may be
14 altered to read as follows:

15 In the event that the (plaintiff or defendant) fails to
16 pay any child, medical, or spousal support payment, as such failure
17 is certified each month by the State Disbursement Unit in cases
18 in which court-ordered support is delinquent in an amount equal to
19 the support due and payable for a one-month period of time, he or
20 she may be required to appear in court on a date to be determined
21 by the court and show cause why such payment was not made. In the
22 event that the (plaintiff or defendant) fails to pay and appear as
23 ordered, a warrant shall be issued for his or her arrest.

24 Sec. 45. Section 42-705, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 42-705 (a) In a proceeding to establish or enforce a
27 support order or to determine parentage, a tribunal of this state

1 may exercise personal jurisdiction over a nonresident individual or
2 the individual's guardian or conservator if:

3 (1) The individual is personally served with notice
4 within this state;

5 (2) The individual submits to the jurisdiction of this
6 state by consent, by entering a general appearance, or by filing
7 a responsive document having the effect of waiving any contest to
8 personal jurisdiction;

9 (3) The individual resided with the child in this state;

10 (4) The individual resided in this state and provided
11 prenatal expenses or support for the child;

12 (5) The child resides in this state as a result of the
13 acts or directives of the individual;

14 (6) The individual engaged in sexual intercourse in this
15 state and the child may have been conceived by that act of
16 intercourse;

17 (7) The individual asserted parentage in this state
18 pursuant to section 43-104.02, 71-628, 71-640.01, or 71-640.02 with
19 the Department of Health and Human Services; ~~Finance and Support;~~
20 or

21 (8) There is any other basis consistent with the
22 constitutions of this state and the United States for the exercise
23 of personal jurisdiction.

24 (b) The basis of personal jurisdiction set forth in
25 subsection (a) of this section or in any other law of this state
26 shall not be used to acquire personal jurisdiction for a tribunal
27 of this state to modify a child support order of another state

1 unless the requirements of section 42-746 or 42-747.03 are met.

2 Sec. 46. Section 42-917, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 42-917 The delivery of all services provided for under
5 the Protection from Domestic Abuse Act shall be done in cooperation
6 with existing public, private, state, and local programs whenever
7 possible to avoid duplication of services. Special effort shall
8 be taken to coordinate programs with the Department of Labor, the
9 Nebraska Commission on the Status of Women, the State Department
10 of Education, ~~the Division of Behavioral Health Services of the~~
11 Department of Health and Human Services, ~~the Department of Health~~
12 ~~and Human Services Regulation and Licensure,~~ the Department of
13 ~~Health and Human Services Finance and Support,~~ other appropriate
14 agencies, community service agencies, and private sources.

15 Sec. 47. Section 43-102, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-102 Except as otherwise provided in the Nebraska
18 Indian Child Welfare Act, any person or persons desiring to adopt
19 a minor child or an adult child shall file a petition for adoption
20 signed and sworn to by the person or persons desiring to adopt.
21 The consent or consents required by sections 43-104 and 43-105 or
22 section 43-104.07, the documents required by section 43-104.07 or
23 the documents required by sections 43-104.08 to 43-104.24, and a
24 completed preplacement adoptive home study if required by section
25 43-107 shall be filed prior to the hearing required in section
26 43-103.

27 The county court of the county in which the person or

1 persons desiring to adopt the child reside has jurisdiction of
2 adoption proceedings, except that if a separate juvenile court
3 already has jurisdiction over the child to be adopted under the
4 Nebraska Juvenile Code, such separate juvenile court has concurrent
5 jurisdiction with the county court in such adoption proceeding. The
6 petition and all other court filings for an adoption proceeding
7 shall be filed with the clerk of the county court. The party
8 shall state in the petition whether such party requests that the
9 proceeding be heard by the county court or, in cases in which a
10 separate juvenile court already has jurisdiction over the child to
11 be adopted under the Nebraska Juvenile Code, such separate juvenile
12 court. Such proceeding is considered a county court proceeding even
13 if heard by a separate juvenile court judge and an order of the
14 separate juvenile court in such adoption proceeding has the force
15 and effect of a county court order. The testimony in an adoption
16 proceeding heard before a separate juvenile court judge shall be
17 preserved as in any other separate juvenile court proceeding. The
18 clerks of the district courts shall transfer all adoption petitions
19 and other adoption filings which were filed with such clerks prior
20 to August 28, 1999, to the clerk of the county court where the
21 separate juvenile court which heard the proceeding is situated. The
22 clerk of such county court shall file and docket such petitions and
23 other filings.

24 Except as set out in subdivisions (1)(b)(ii), (iii),
25 (iv), and (v) of section 43-107, an adoption decree shall not be
26 issued until at least six months after an adoptive home study has
27 been completed by the ~~department~~ Department of Health and Human

1 Services or a licensed child placement agency.

2 Sec. 48. Section 43-104.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-104.01 (1) The Department of Health and Human Services
5 ~~Finance and Support~~ shall establish a biological father registry
6 which shall record the names and addresses of (a) any person
7 adjudicated by a court of this state to be the father of a child
8 born out of wedlock if a certified copy of the court order is
9 filed with the registry by such person or any other person, (b) any
10 person who has filed with the registry, prior to notification under
11 sections 43-104.12 to 43-104.16, a paternity claim for notification
12 purposes for such child, (c) any person who has filed with the
13 registry a notice of intent to claim paternity and obtain custody
14 of such child, and (d) any person adjudicated by a court of another
15 state or territory of the United States to be the father of such
16 child, if a certified copy of the court order has been filed with
17 the registry by that person or any other person.

18 (2) A paternity claim for notification purposes or a
19 notice of intent to claim paternity and obtain custody filed with
20 the registry shall include the claimant's name and address, the
21 name and last-known address of the mother, and the month and year
22 of the birth or the expected birth of the child. The person filing
23 the notice shall notify the registry of any change of address
24 pursuant to procedures prescribed by regulations of the department.

25 (3) Any person filing a paternity claim for notification
26 purposes or a notice of intent to claim paternity and obtain
27 custody with the biological father registry may revoke such notice,

1 and upon receipt of such revocation by the registry, the effect
2 shall be as if no filing had ever been made.

3 (4) The department shall not divulge the names and
4 addresses of persons listed with the registry to any other person
5 except as authorized by law or upon order of a court for good cause
6 shown.

7 (5) The department may develop information about the
8 registry and may distribute such information, through ~~their~~ its
9 existing publications, to the news media and the public. The
10 department may provide information about the registry to the
11 Department of Correctional Services, ~~the Department of Health and~~
12 ~~Human Services,~~ and the Department of Health and Human Services
13 Regulation and Licensure, ~~who~~ which may distribute such information
14 through ~~their~~ its existing publications.

15 Sec. 49. Section 43-104.02, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-104.02 As provided in section 43-104.01, a person
18 claiming to be the father of the child and who intends to claim
19 paternity and obtain custody of the child shall file with the
20 biological father registry maintained by the Department of Health
21 and Human Services ~~Finance and Support~~ on forms provided by the
22 department, within five business days after the birth of the
23 child, or within five business days after receipt of the notice
24 contemplated in section 43-104.12, or within five business days
25 after the last date of any published notice provided pursuant
26 to section 43-104.14, whichever is later, a notice of intent to
27 claim paternity and obtain custody. Such notice shall include the

1 social security number of the person claiming to be the father.
2 A notice of intent to claim paternity and obtain custody of the
3 child shall be considered to have been filed if it is received by
4 the ~~Department of Health and Human Services Finance and Support~~
5 department or postmarked prior to the end of the fifth business day
6 contemplated in this section.

7 Sec. 50. Section 43-104.03, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-104.03 Within three days after the filing of a
10 paternity claim for notification purposes or a notice of intent
11 to claim paternity and obtain custody with the biological father
12 registry pursuant to sections 43-104.01 and 43-104.02, the ~~Director~~
13 ~~of Finance and Support~~ Department of Health and Human Services
14 shall cause a certified copy of such notice to be mailed by
15 certified mail to (1) the mother or prospective mother of such
16 child at the last-known address shown on the notice or (2) an agent
17 specifically designated in writing by the mother or prospective
18 mother to receive such notice. The notice shall be admissible in
19 any action for paternity, shall estop the claimant from denying
20 paternity of such child thereafter, and shall contain language that
21 the claimant acknowledges liability for contribution to the support
22 and education of the child after birth and for contribution to the
23 pregnancy-related medical expenses of the mother.

24 Sec. 51. Section 43-104.04, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 43-104.04 If a notice of intent to claim paternity and
27 obtain custody is not timely filed with the biological father

1 registry pursuant to section 43-104.02, the mother of a child born
2 out of wedlock or an agent specifically designated in writing by
3 the mother may request, and the Department of Health and Human
4 Services ~~Finance and Support~~ shall supply, a certificate that no
5 notice of intent to claim paternity and obtain custody has been
6 filed with the biological father registry and the filing of such
7 certificate pursuant to section 43-102 shall eliminate the need
8 or necessity of a consent or relinquishment for adoption by the
9 natural father of such child.

10 Sec. 52. Section 43-107, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-107 (1)(a) For adoption placements occurring or in
13 effect prior to January 1, 1994, upon the filing of a petition
14 for adoption, the county judge shall, except in the adoption of
15 children by stepparents when the requirement of an investigation is
16 discretionary, request the Department of Health and Human Services
17 or any child placement agency licensed by the department to examine
18 ~~into~~ the allegations set forth in the petition and to ascertain
19 any other facts relating to such minor child and the person or
20 persons petitioning to adopt such child as may be relevant to
21 the propriety of such adoption, except that the county judge
22 shall not be required to request such an examination if the judge
23 determines that information compiled in a previous examination or
24 study is sufficiently current and comprehensive. Upon the request
25 being made, the department or other licensed agency shall conduct
26 an investigation and report its findings to the county judge in
27 writing at least one week prior to the date set for hearing.

1 (b) (i) For adoption placements occurring on or after
2 January 1, 1994, a preplacement adoptive home study shall be filed
3 with the court prior to the hearing required in section 43-103,
4 which study is completed by the Department of Health and Human
5 Services or a licensed child placement agency within one year
6 before the date on which the adoptee is placed with the petitioner
7 or petitioners and indicates that the placement of a child for the
8 purpose of adoption would be safe and appropriate.

9 (ii) An adoptive home study shall not be required when
10 the petitioner is a stepparent of the adoptee unless required by
11 the court, except that for petitions filed on or after January 1,
12 1994, the judge shall order the petitioner or his or her attorney
13 to request the Nebraska State Patrol to file a national criminal
14 history record information check and to request the department to
15 conduct and file a check of the central register created in section
16 28-718 for any history of the petitioner of behavior injurious to
17 or which may endanger the health or morals of a child. An adoption
18 decree shall not be issued until such records are on file with the
19 court. The petitioner shall pay the cost of the national criminal
20 history record information check and the check of the central
21 register.

22 (iii) The placement of a child for foster care made by or
23 facilitated by the department or a licensed child placement agency
24 in the home of a person who later petitions the court to adopt
25 the child shall be exempt from the requirements of a preplacement
26 adoptive home study. The petitioner or petitioners who meet such
27 criteria shall have a postplacement adoptive home study completed

1 by the department or a licensed child placement agency and filed
2 with the court at least one week prior to the hearing for adoption.

3 (iv) A voluntary placement for purposes other than
4 adoption made by a parent or guardian of a child without assistance
5 from an attorney, physician, or other individual or agency which
6 later results in a petition for the adoption of the child shall be
7 exempt from the requirements of a preplacement adoptive home study.
8 The petitioner or petitioners who meet such criteria shall have a
9 postplacement adoptive home study completed by the department or a
10 licensed child placement agency and filed with the court at least
11 one week prior to the hearing for adoption.

12 (v) The adoption of an adult child as provided
13 in subsection (2) of section 43-101 shall be exempt from
14 the requirements of an adoptive home study unless the court
15 specifically orders otherwise. The court may order an adoptive home
16 study, a background investigation, or both if the court determines
17 that such would be in the best interests of the adoptive party or
18 the person to be adopted.

19 (vi) Any adoptive home study required by this section
20 shall be conducted by the department or a licensed child placement
21 agency at the expense of the petitioner or petitioners unless such
22 expenses are waived by the department or licensed child placement
23 agency. The department or licensed agency shall determine the fee
24 or rate for the adoptive home study.

25 (vii) The preplacement or postplacement adoptive home
26 study shall be performed as prescribed in rules and regulations
27 of the department and shall include at a minimum an examination

1 into the facts relating to the petitioner or petitioners as may
2 be relevant to the propriety of such adoption. Such rules and
3 regulations shall require an adoptive home study to include a
4 national criminal history record information check and a check of
5 the central register created in section 28-718 for any history of
6 the petitioner or petitioners of behavior injurious to or which may
7 endanger the health or morals of a child.

8 (2) Upon the filing of a petition for adoption, the judge
9 shall require that a complete medical history be provided on the
10 child, except that in the adoption of a child by a stepparent
11 the provision of a medical history shall be discretionary. A
12 medical history shall be provided, if available, on the biological
13 mother and father and their biological families, including, but
14 not limited to, siblings, parents, grandparents, aunts, and uncles,
15 unless the child is foreign born or was abandoned. The medical
16 history or histories shall be reported on a form provided by
17 the ~~Department of Health and Human Services Finance and Support~~
18 department and filed along with the report of adoption as provided
19 by section 71-626. If the medical history or histories do not
20 accompany the report of adoption, the ~~Department of Health and~~
21 ~~Human Services Finance and Support~~ department shall inform the
22 court and the State Court Administrator. The medical history or
23 histories shall be made part of the court record. After the entry
24 of a decree of adoption, the court shall retain a copy and forward
25 the original medical history or histories to the ~~Department of~~
26 ~~Health and Human Services Finance and Support~~ department. This
27 subsection shall only apply when the relinquishment or consent for

1 an adoption is given on or after September 1, 1988.

2 Sec. 53. Section 43-118, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-118 All actions of the Department of Health and
5 Human Services under the programs authorized by sections 43-117 to
6 43-117.02 shall be subject to the following criteria:

7 (1) The child so adopted shall have been a child for whom
8 adoption would not have been possible without the financial aid
9 provided for by sections 43-117 to 43-117.02; and

10 (2) The ~~Director of Health and Human Services~~ department
11 shall adopt and promulgate rules and regulations for the
12 administration of sections 43-117 to 43-118.

13 Sec. 54. Section 43-123.01, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-123.01 Medical history shall mean medical history as
16 defined by the ~~Department of Health and Human Services Finance and~~
17 ~~Support~~ department in its rules and regulations.

18 Sec. 55. Section 43-124, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-124 The ~~Department of Health and Human Services~~
21 ~~Finance and Support~~ department shall provide a form which may
22 be signed by a relative indicating the fact that such relative
23 consents to his or her name being released to such relative's
24 adopted person as provided by sections 43-113, 43-119 to ~~43-146,~~
25 43-146.16, 71-626, 71-626.01, and 71-627.02. Such consent shall be
26 effective as of the time of filing the form with the ~~Department of~~
27 ~~Health and Human Services Finance and Support.~~ department.

1 Sec. 56. Section 43-125, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-125 The form provided by section 43-124 shall contain
4 the following information:

5 (1) The name of the person completing the form and, if
6 different, the name of such person at the time of birth of the
7 adopted person;

8 (2) The relationship of the person to the adopted person;

9 (3) The date of birth of the adopted person;

10 (4) The sex of the adopted person;

11 (5) The place of birth of the adopted person;

12 (6) Authorization that the name, last-known address, and
13 last-known telephone number of the relative and the original birth
14 certificate of the adopted person may be released to the adopted
15 person as provided by sections 43-113, 43-119 to ~~43-146~~, 43-146.16,
16 71-626, 71-626.01, and 71-627.02; and

17 (7) A notice in the following form:

18 IMPORTANT NOTICE

19 You do not have to sign this form. If you do sign it,
20 you are entitled to a copy of it. Your signature on this form
21 allows the Department of Health and Human Services ~~Finance and~~
22 ~~Support~~ to give your name and other information to the adopted
23 person designated, upon his or her written request after reaching
24 twenty-five years of age. You may file additional copies of this
25 consent if your name or address changes. You may revoke this
26 consent at any time by filing a revocation of consent with the
27 Department of Health and Human Services. ~~Finance and Support.~~

1 Sec. 57. Section 43-126, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-126 At any time after signing the consent form, a
4 relative may revoke such consent form. A form for revocation of
5 consent shall be provided by the ~~Department of Health and Human~~
6 ~~Services Finance and Support.~~ department. The revocation shall be
7 effective as of the time of filing the form with the ~~Department~~
8 ~~of Health and Human Services Finance and Support.~~ department. The
9 revocation form shall contain the following notice:

10 IMPORTANT NOTICE

11 You do not have to sign this form. If you do sign it,
12 you are entitled to a copy of it. Your signature on this form
13 means that the Department of Health and Human Services ~~Finance~~
14 ~~and Support~~ will not disclose your name or address to any person
15 without a court order. If you sign this form and later decide
16 you do want your name and address given to a relative properly
17 requesting the information, you may file another consent for that
18 purpose.

19 Sec. 58. Section 43-127, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-127 The forms provided by sections 43-124 and 43-126
22 shall be notarized and filed with the ~~Department of Health and~~
23 ~~Human Services Finance and Support~~ department which shall keep such
24 forms with all other records of an individual adopted person.

25 Sec. 59. Section 43-130, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 43-130 Except as otherwise provided in the Nebraska

1 Indian Child Welfare Act, an adopted person twenty-five years
2 of age or older born in this state who desires access to the
3 names of relatives or access to his or her original certificate
4 of birth shall file a written request for such information with
5 the ~~Department of Health and Human Services Finance and Support~~
6 department. The department shall provide a form for making such a
7 request.

8 Sec. 60. Section 43-131, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 43-131 (1) Upon receipt of a request for information,
11 the ~~Department of Health and Human Services Finance and Support~~
12 department shall check the records of the adopted person making the
13 request to determine whether the consent form provided by section
14 43-124 has been signed and filed by any relative of the adopted
15 person and whether an unrevoked nonconsent form is on file from a
16 biological parent or parents pursuant to section 43-132 or from an
17 adoptive parent or parents pursuant to section 43-143.

18 (2) If the consent form has been signed and filed and
19 has not been revoked and if no nonconsent form has been filed
20 by an adoptive parent or parents pursuant to section 43-143,
21 the ~~Department of Health and Human Services Finance and Support~~
22 department shall release the information on such form to the
23 adopted person.

24 (3) If no consent forms have been filed, or if the
25 consent form has been revoked, and if no nonconsent form has been
26 filed pursuant to section 43-143, the following information shall
27 be released to the adopted person:

1 (a) The name and address of the court which issued the
2 adoption decree;

3 (b) The name and address of the child placement agency,
4 if any, involved in the adoption; and

5 (c) The fact that an agency may assist the adopted
6 person in searching for relatives as provided in sections 43-132 to
7 43-141.

8 (4) The provisions of this section shall not apply to
9 persons subject to the Nebraska Indian Child Welfare Act.

10 Sec. 61. Section 43-132, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-132 A biological parent or parents may at any time,
13 if they desire, file a notice of nonconsent with the ~~Department of~~
14 ~~Health and Human Services Finance and Support~~ department stating
15 that at no time after his or her death and prior to the death of
16 his or her spouse, if such spouse is not a biological parent, may
17 any information on the adopted person's original birth certificate
18 be released to such adopted person. The provisions of this section
19 shall not apply to persons subject to the Nebraska Indian Child
20 Welfare Act.

21 Sec. 62. Section 43-133, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-133 The nonconsent form provided for in section 43-132
24 shall contain the following information:

25 (1) The name of the person completing the form and, if
26 different, the name of such person at the time of birth of the
27 adopted person;

1 (2) The relationship of the person to the adopted person;

2 (3) The date of birth of the adopted person;

3 (4) The sex of the adopted person;

4 (5) The place of birth of the adopted person;

5 (6) A statement that no information concerning the
6 information contained in the original birth certificate of the
7 adopted person shall be released following the death of the parent
8 or parents signing the form and such information shall not be
9 released to the adopted person prior to the death of the spouse of
10 such parent or parents, if such spouse is not a biological parent;
11 and

12 (7) A notice in the following form:

13 IMPORTANT NOTICE

14 You do not have to sign this form. If you do sign it,
15 you are entitled to a copy of it. Your signature on this form
16 means that the Department of Health and Human Services ~~Finance and~~
17 ~~Support~~ will not disclose any information contained on the birth
18 certificate of the adopted person to any person following your
19 death and prior to the death of your spouse, if such spouse is not
20 a biological parent, without a court order. If you later decide
21 that you do not object to the release of such information you may
22 file a form stating that purpose.

23 Sec. 63. Section 43-134, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-134 At any time after signing the notice of nonconsent
26 provided for in section 43-132, the parent or parents may revoke
27 such notice. A form of revocation shall be provided by the

1 ~~Department of Health and Human Services Finance and Support,~~
2 department and shall take effect at the time of filing of the
3 form with the department. The revocation form shall contain the
4 following notice:

5 IMPORTANT NOTICE

6 You do not have to sign this form. If you do sign it,
7 you are entitled to a copy of it. Your signature on this form
8 means that the Department of Health and Human Services ~~Finance~~
9 ~~and Support~~ may disclose any information contained on the birth
10 certificate of the adopted person following your death. If you
11 sign this form and later decide you do not want this information
12 released following your death and prior to the death of your
13 spouse, if such spouse is not a biological parent, you may file
14 another form for that purpose.

15 Sec. 64. Section 43-135, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-135 If the ~~Department of Health and Human Services~~
18 ~~Finance and Support~~ department has information indicating that both
19 biological parents of the adopted person are deceased, or if only
20 one biological parent is known and information indicates that such
21 parent is deceased, and no nonconsent form, as provided in section
22 43-132 or 43-143, has been filed, all information on the adopted
23 person's original birth certificate regarding such deceased parent
24 or parents shall be released to the adopted person notwithstanding
25 the fact that no consent form was signed and filed by such deceased
26 parent or parents prior to death.

27 Sec. 65. Section 43-137, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-137 If an adopted person twenty-five years of age or
3 older, after following the procedures set forth in sections 43-130
4 and 43-131 is not able to obtain information about such person's
5 relatives, such person may then contact the child placement agency
6 which handled the adoption if the name of the agency has been
7 given to the adopted person by the ~~Department of Health and Human~~
8 ~~Services Finance and Support~~ department. If it is not feasible for
9 the adopted person to contact the agency, such person may contact
10 the ~~Department of Health and Human Services~~ department.

11 Sec. 66. Section 43-138, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 43-138 After being contacted by an adopted person, if no
14 valid nonconsent form, as provided in section 43-132 or 43-143, is
15 on file, the ~~Department of Health and Human Services~~ department or
16 agency as the case may be shall apply to the clerk of the court
17 which issued the adoption decree or the ~~Department of Health and~~
18 ~~Human Services Finance and Support~~ department for any information
19 in the records of the court or the ~~Department of Health and~~
20 ~~Human Services Finance and Support~~ department regarding the adopted
21 person or his or her relatives, including names, locations, and any
22 birth, marriage, divorce, or death certificates. Any information
23 which is available shall be given only to the ~~Department of~~
24 ~~Health and Human Services~~ department or agency. The ~~Department of~~
25 ~~Health and Human Services~~ department or agency shall keep such
26 information confidential and shall not disclose it either directly
27 or indirectly to the adopted person. The provisions of this section

1 shall not apply to persons subject to the Nebraska Indian Child
2 Welfare Act.

3 Sec. 67. Section 43-139, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-139 When any information is provided to the ~~Department~~
6 ~~of Health and Human Services~~ department or agency pursuant to
7 section 43-138, the person providing the information shall record
8 in the records of the adopted person the nature of the information
9 disclosed, to whom the information was disclosed, and the date of
10 the disclosure.

11 Sec. 68. Section 43-140, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 43-140 (1) Upon determining the identity and location
14 of the relative being sought, the ~~Department of Health and Human~~
15 ~~Services~~ department or agency shall attempt to contact the relative
16 to determine such relative's willingness to be contacted by the
17 adopted person.

18 (2) In contacting the relative, the ~~Department of Health~~
19 ~~and Human Services~~ department or agency shall not discuss or reveal
20 in any other manner to any person other than that particular
21 relative who is being sought the nature of the contact, the
22 name, nature, or business of the adoption agency, or any other
23 information which might indicate or imply that such relative is the
24 biological parent of an adopted person.

25 (3) In contacting the relative, the ~~Department of Health~~
26 ~~and Human Services~~ department or agency shall not reveal the
27 identity or any other information about the adopted person.

1 (4) No reunion of a relative and an adopted person
2 shall be arranged, nor shall any information about the relative
3 be released to the adopted person until such relative has signed
4 the consent form provided by section 43-124 and the form has been
5 filed with the ~~Department of Health and Human Services Finance and~~
6 ~~Support department.~~

7 Sec. 69. Section 43-141, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-141 The ~~Department of Health and Human Services~~
10 department or agency may charge a reasonable fee in an amount
11 established by the department or agency in rules and regulations
12 to recover expenses in carrying out sections 43-137 to 43-140. The
13 department or agency shall use the fees to defray costs incurred
14 to carry out such sections. The department or agency may waive the
15 fee if the requesting party shows that the fee would work an undue
16 financial hardship on the party.

17 The department may adopt and promulgate rules and
18 regulations to carry out such sections.

19 Sec. 70. Section 43-142, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-142 The ~~Department of Health and Human Services~~
22 department or an agency which receives information as provided
23 in section 43-138 shall file a written report with the clerk of the
24 court within nine months of receipt of the information. The report
25 shall indicate whether the relative has been located and whether
26 a contact between the relative and the adopted person has been
27 arranged or has occurred. If the relative has not been located, the

1 report shall set forth the efforts made to identify and locate the
2 relative.

3 Sec. 71. Section 43-143, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-143 For adoptions in which the relinquishment or
6 consent for adoption was given prior to July 20, 2002: An adoptive
7 parent or parents may at any time, if they desire, file a notice of
8 nonconsent with the ~~Department of Health and Human Services Finance~~
9 ~~and Support~~ department stating that at no time prior to his or her
10 death or the death of both parents if each signed the form may
11 any information on the adopted person's original birth certificate
12 be released to such adopted person. The provisions of this section
13 shall not apply to persons subject to the Nebraska Indian Child
14 Welfare Act.

15 Sec. 72. Section 43-144, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-144 The nonconsent form provided for in section 43-143
18 shall contain the following information:

19 (1) The name of the person completing the form and, if
20 different, the name of such person at the time of birth of the
21 adopted person;

22 (2) The relationship of the person to the adopted person;

23 (3) The date of birth of the adopted person;

24 (4) The sex of the adopted person;

25 (5) The place of birth of the adopted person;

26 (6) A statement that no information concerning the
27 information contained in the original birth certificate of the

1 adopted person shall be released prior to the death of the adoptive
2 parent or parents signing the form; and

3 (7) A notice in the following form:

4 IMPORTANT NOTICE

5 You do not have to sign this form. If you do sign it,
6 you are entitled to a copy of it. Your signature on this form
7 means that the Department of Health and Human Services ~~Finance and~~
8 ~~Support~~ will not disclose any information contained on the birth
9 certificate of the adopted person to any person prior to your death
10 and the death of your spouse, if he or she signed the form, without
11 a court order. If you later decide that you do not object to
12 the release of such information you may file a form stating that
13 purpose.

14 Sec. 73. Section 43-145, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-145 At any time after signing the notice of nonconsent
17 provided for in section 43-143, the adoptive parent or parents
18 may revoke such notice. A form of revocation shall be provided by
19 the ~~Department of Health and Human Services Finance and Support,~~
20 department and shall take effect at the time of filing of the
21 form with the ~~Department of Health and Human Services Finance~~
22 ~~and Support.~~ department. The revocation form shall contain the
23 following notice:

24 IMPORTANT NOTICE

25 You do not have to sign this form. If you do sign it,
26 you are entitled to a copy of it. Your signature on this form
27 means that the Department of Health and Human Services ~~Finance~~

1 ~~and Support~~ may disclose any information contained on the birth
2 certificate of the adopted person pursuant to sections 43-113,
3 43-119 to ~~43-146,~~ 43-146.16, 71-626, 71-626.01, and 71-627.02.
4 If you sign this form and later decide you do not want this
5 information released prior to your death you may file another form
6 for that purpose.

7 Sec. 74. Section 43-146, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-146 The forms provided by sections 43-132, 43-134,
10 43-143, and 43-145 shall be notarized and filed with the ~~Department~~
11 ~~of Health and Human Services Finance and Support~~ department which
12 shall keep such forms with all other records of an individual
13 adopted person.

14 Sec. 75. Section 43-146.02, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-146.02 A child placement agency, the ~~Department of~~
17 ~~Health and Human Services,~~ department, or a private agency handling
18 the adoption, as the case may be, shall maintain and shall provide
19 to the adopting parents upon placement of the person with such
20 parents and to the adopted person, upon his or her request, the
21 available medical history of the person placed for adoption and of
22 the biological parents. The medical history shall not include the
23 names of the biological parents of the adopted person or any other
24 identifying information.

25 Sec. 76. Section 43-146.04, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 43-146.04 An adopted person twenty-one years of age

1 or older born in this state who desires access to the names
2 of relatives or access to his or her original certificate of
3 birth shall file a written request for such information with
4 the ~~Department of Health and Human Services Finance and Support~~
5 department. The department shall provide a form for making such
6 request.

7 Sec. 77. Section 43-146.05, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-146.05 (1) Upon receipt of a request for information
10 made under section 43-146.04, the ~~Department of Health and Human~~
11 ~~Services Finance and Support~~ department shall check the records
12 of the adopted person to determine whether an unrevoked nonconsent
13 form is on file from a biological parent pursuant to section
14 43-146.06.

15 (2) If no nonconsent form has been filed pursuant to
16 section 43-146.06, the following information shall be released to
17 the adopted person:

18 (a) The name and address of the court which issued the
19 adoption decree;

20 (b) The name and address of the child placement agency,
21 if any, involved in the adoption;

22 (c) The fact that an agency or the ~~Department of Health~~
23 ~~and Human Services~~ department may assist the adopted person in
24 searching for relatives as provided in sections 43-146.10 to
25 43-146.14;

26 (d) A copy of the person's original birth certificate;
27 and

1 (e) A copy of the person's medical history and any
2 medical records on file.

3 (3) If an unrevoked nonconsent form has been filed
4 pursuant to section 43-146.06, no information may be released to
5 the adopted person except a copy of the person's medical history as
6 provided in section 43-107 if requested. The medical history shall
7 not include the names of the biological parents or relatives of the
8 adopted person or any other identifying information.

9 Sec. 78. Section 43-146.06, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-146.06 A biological parent may at any time file a
12 notice of nonconsent with the ~~Department of Health and Human~~
13 ~~Services Finance and Support~~ department stating that at no time
14 prior to his or her death may any information on the adopted
15 person's original birth certificate or any other identifying
16 information, except medical histories as provided in section
17 43-107, be released to such adopted person. Failure by a biological
18 parent to sign the notice of nonconsent shall be deemed a notice
19 of consent by such parent to release the adopted person's original
20 birth certificate to such adopted person.

21 Sec. 79. Section 43-146.07, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-146.07 The nonconsent form provided for in section
24 43-146.06 shall be designed by the ~~Department of Health and Human~~
25 ~~Services Finance and Support~~ department and shall contain the
26 following information:

27 (1) The name of the person completing the form and, if

1 different, the name of such person at the time of birth of the
2 adopted person;

3 (2) The relationship of the person to the adopted person;

4 (3) The date of birth of the adopted person;

5 (4) The sex of the adopted person;

6 (5) The place of birth of the adopted person;

7 (6) A statement that no information contained in the
8 original birth certificate or any other identifying information,
9 except medical histories as provided in section 43-107, shall be
10 released prior to the death of the parent signing the form;

11 (7) A statement that the person signing understands the
12 effect and consequences of filing or not filing a nonconsent form;
13 and

14 (8) A notice in the following form:

15 IMPORTANT NOTICE

16 You do not have to sign this form. If you do sign it,
17 you are entitled to a copy of it. Your signature on this form
18 means that the Department of Health and Human Services ~~Finance and~~
19 ~~Support~~ will not disclose any information contained in the original
20 birth certificate of the adopted person or any other identifying
21 information to any person prior to your death without a court
22 order. If you later decide that you do not object to the release of
23 such information, you may file a form stating that purpose.

24 Sec. 80. Section 43-146.08, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 43-146.08 At any time after signing the notice of
27 nonconsent provided for in section 43-146.06, the biological parent

1 may revoke such notice. A form of revocation shall be provided by
2 the ~~Department of Health and Human Services Finance and Support~~
3 department and shall take effect at the time of filing of the
4 form with the department. The revocation form shall contain the
5 following notice:

6 IMPORTANT NOTICE

7 You do not have to sign this form. If you do sign it,
8 you are entitled to a copy of it. Your signature on this form
9 means that the Department of Health and Human Services ~~Finance~~
10 ~~and Support~~ may at any time disclose to the adopted person any
11 information contained on the original birth certificate of the
12 adopted person.

13 Sec. 81. Section 43-146.09, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-146.09 If the ~~Department of Health and Human Services~~
16 ~~Finance and Support~~ department has verified information indicating
17 that both biological parents of the adopted person are deceased or
18 if only one biological parent is known and verified information
19 indicates that such parent is deceased, all information on the
20 adopted person's original birth certificate regarding such deceased
21 parent or parents shall be released to the adopted person upon
22 request. The department shall establish a policy for verifying
23 information about the death of the biological parent or parents.

24 Sec. 82. Section 43-146.10, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 43-146.10 If an adopted person twenty-one years of age
27 or older, after following the procedures set forth in sections

1 43-146.04 and 43-146.05, is unable to obtain information about the
2 adopted person's relatives and there is no unrevoked nonconsent
3 form as provided in section 43-146.06 on file with the ~~Department~~
4 ~~of Health and Human Services Finance and Support, department,~~ such
5 person may then contact the child placement agency which handled
6 the adoption or the ~~Department of Health and Human Services-~~
7 department.

8 Sec. 83. Section 43-146.11, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 43-146.11 After being contacted by an adopted person
11 as provided in section 43-146.10, the ~~Department of Health and~~
12 ~~Human Services~~ department or agency, as the case may be, shall
13 verify with the ~~Department of Health and Human Services Finance~~
14 ~~and Support~~ that no unrevoked nonconsent form is on file with the
15 department. If an unrevoked nonconsent form is not on file, the
16 ~~Department of Health and Human Services~~ department or agency, as
17 the case may be, shall apply to the clerk of the court which
18 issued the adoption decree or the ~~Department of Health and Human~~
19 ~~Services Finance and Support~~ department for any information in
20 the court or ~~Department of Health and Human Services Finance and~~
21 ~~Support~~ department records regarding the adopted person or his or
22 her relatives, including names, locations, and any birth, marriage,
23 divorce, or death certificates. Any information which is available
24 shall be given by the court or ~~Department of Health and Human~~
25 ~~Services Finance and Support~~ department only to the ~~Department of~~
26 ~~Health and Human Services~~ department or agency. The ~~Department of~~
27 ~~Health and Human Services~~ department or agency shall keep such

1 information confidential.

2 Sec. 84. Section 43-146.12, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-146.12 When any information is provided to the
5 ~~Department of Health and Human Services~~ department or agency
6 pursuant to section 43-146.11, the person providing the information
7 shall record in the records of the adopted person the nature of
8 the information disclosed, to whom the information was disclosed,
9 and the date of the disclosure.

10 Sec. 85. Section 43-146.13, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-146.13 (1) Upon determining the identity and location
13 of the relative being sought, the ~~Department of Health and Human~~
14 ~~Services~~ department or agency shall attempt to contact the relative
15 to determine such relative's willingness to be contacted by the
16 adopted person.

17 (2) Information about the relative shall not be released
18 to the adopted person by the department or agency unless such
19 relative agrees to be contacted by the adopted person.

20 Sec. 86. Section 43-146.14, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-146.14 The ~~Department of Health and Human Services~~
23 department or agency may charge a reasonable fee in an amount
24 established by the department or agency in rules and regulations to
25 recover expenses in carrying out sections 43-146.10 to 43-146.13.
26 The department or agency shall use the fees to defray costs
27 incurred to carry out such sections. The department or agency may

1 waive the fee if the requesting party shows that the fee would work
2 an undue financial hardship on the party.

3 The department may adopt and promulgate rules and
4 regulations to carry out sections 43-123.01 and 43-146.01 to
5 43-146.16.

6 Sec. 87. Section 43-146.15, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-146.15 The ~~Department of Health and Human Services~~
9 department or an agency which receives information as provided
10 in section 43-146.11 shall file a written report with the clerk
11 of the court or ~~Department of Health and Human Services Finance~~
12 ~~and Support~~ department within nine months of receipt of the
13 information. The report shall indicate whether the relative has
14 been located and whether a contact between the relative and the
15 adopted person has been arranged or has occurred. If the relative
16 has not been located, the report shall set forth the efforts made
17 to identify and locate the relative.

18 Sec. 88. Section 43-146.16, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-146.16 The forms provided by sections 43-146.06 and
21 43-146.08 shall be notarized and filed with the ~~Department of~~
22 ~~Health and Human Services Finance and Support~~ department which
23 shall keep such forms with all other records of the adopted person.

24 Sec. 89. Section 43-146.17, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 43-146.17 (1) Notwithstanding sections 43-119 to
27 43-146.16 and except as otherwise provided in this section, an

1 heir twenty-one years of age or older of an adopted person shall
2 have access to all information on file at the Department of Health
3 and Human Services, ~~the Department of Health and Human Services~~
4 ~~Regulation and Licensure,~~ and the Department of Health and Human
5 ~~Services Finance and Support~~ related to such adopted person,
6 including information contained in the original birth certificate
7 of the adopted person, if: (a) (i) The adopted person is deceased,
8 (ii) both biological parents of the adopted person are deceased or,
9 if only one biological parent is known, such parent is deceased,
10 and (iii) each spouse of the biological parent or parents of the
11 adopted person, if any, is deceased, if such spouse is not a
12 biological parent; or (b) at least one hundred years has passed
13 since the birth of the adopted person.

14 (2) The following information relating to an adopted
15 person shall not be released to the heir of such person under
16 this section: (a) Tests conducted for the human immunodeficiency
17 virus or acquired immunodeficiency syndrome; (b) the revocation
18 of a license to practice medicine in the State of Nebraska; (c)
19 child protective services reports or records; (d) adult protective
20 services reports or records; (e) information from the central
21 register of child protection cases and the Adult Protective
22 Services Central Registry; or (f) law enforcement investigative
23 reports.

24 (3) ~~The Department of Health and Human Services, the~~
25 ~~Department of Health and Human Services Regulation and Licensure,~~
26 ~~and the Department of Health and Human Services Finance and Support~~
27 department shall provide a form that an heir of an adopted person

1 may use to request information under this section. The ~~Department~~
2 ~~of Health and Human Services,~~ the Department of Health and Human
3 ~~Services Regulation and Licensure,~~ and the Department of Health
4 ~~and Human Services Finance and Support~~ department may charge a
5 reasonable fee in an amount established by rules and regulations of
6 ~~each~~ the department to recover expenses incurred by the department
7 in carrying out this section. Such fee may be waived if the
8 requesting party shows that the fee would work an undue financial
9 hardship on the party. When any information is provided to an heir
10 of an adopted person under this section, the disclosure of such
11 information shall be recorded in the records of the adopted person,
12 including the nature of the information disclosed, to whom the
13 information was disclosed, and the date of the disclosure.

14 (4) For purposes of this section, an heir of an adopted
15 person means a direct biological descendent of such adopted person.

16 (5) The ~~Department of Health and Human Services,~~ the
17 ~~Department of Health and Human Services Regulation and Licensure,~~
18 ~~and the Department of Health and Human Services Finance and Support~~
19 department may adopt and promulgate rules and regulations to carry
20 out this section.

21 Sec. 90. Section 43-161, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-161 All client records from the Nebraska Industrial
24 Home at Milford shall be maintained by the Department of Health
25 and Human Services as confidential records but shall be accessible
26 as provided by statute or by the rules and regulations of the
27 department. ~~The Department of Health and Human Services Regulation~~

1 and Licensure and the Department of Health and Human Services
2 Finance and Support shall have complete access to these records
3 without restriction.

4 Sec. 91. Section 43-284.02, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-284.02 The Department of Health and Human Services
7 may make payments as needed on behalf of a child who has been a
8 ward of the department after the appointment of a guardian for the
9 child. Such payments to the guardian may include maintenance costs,
10 medical and surgical expenses, and other costs incidental to the
11 care of the child. All such payments shall terminate on or before
12 the child's nineteenth birthday. The child under guardianship shall
13 be a child for whom the guardianship would not be possible without
14 the financial aid provided under this section.

15 The ~~Director~~ Department of Health and Human Services
16 shall adopt and promulgate rules and regulations for the
17 administration of this section.

18 Sec. 92. Section 43-411, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-411 The ~~Director~~ chief executive officer of the
21 Department of Health and Human Services shall have the authority,
22 and may delegate the authority only to the Administrator of the
23 Office of Juvenile Services and the superintendents of the youth
24 rehabilitation and treatment centers, to issue detainers for the
25 apprehension and detention of juveniles who have absconded from a
26 placement with or commitment to the office. Any peace officer who
27 detains a juvenile on such a detainer shall hold the juvenile in an

1 appropriate facility or program for juveniles until the office can
2 take custody of the juvenile.

3 Sec. 93. Section 43-504.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 43-504.01 As a condition of eligibility for aid for
6 children included in section 43-504, a partially or totally
7 unemployed parent or needy caretaker shall participate in the
8 employment preparation or training program for aid to dependent
9 children, unless considered exempt under rules and regulations
10 adopted and promulgated by the ~~Director~~ Department of Health and
11 Human Services, and any totally or partially unemployed parent
12 or needy caretaker who fails or refuses without good cause to
13 participate in the employment preparation or training program or
14 who refuses without good cause to accept employment in which he or
15 she is able to engage which will increase his or her ability to
16 maintain himself or herself and his or her family shall be deemed
17 by such refusal to have rendered his or her children ineligible for
18 further aid until he or she has complied with this section.

19 The requirements of this section shall also apply to any
20 dependent child unless he or she is under age sixteen or attending,
21 full time, an elementary, secondary, or vocational school.

22 Sec. 94. Section 43-507, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 43-507 The ~~Director~~ Department of Health and Human
25 Services, ~~in~~ on behalf of mentally and physically handicapped
26 children, shall (1) obtain admission to state and other suitable
27 schools, hospitals, or other institutions or care in their own

1 homes or in family, free, or boarding homes for such children in
2 accordance with the provisions of the existing law, (2) maintain
3 medical supervision over such mentally or physically handicapped
4 children, and (3) provide necessary medical or surgical care in a
5 suitable hospital, sanitarium, preventorium, or other institution
6 or in the child's own home or a home for any medically handicapped
7 child needing such care and pay for such care from public funds,
8 if necessary.

9 Sec. 95. Section 43-508, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 43-508 The ~~Director~~ Department of Health and Human
12 Services shall cooperate with the state institutions for delinquent
13 and mentally and physically handicapped children to ascertain the
14 conditions of the home and the character and habits of the parents
15 of a child, before his or her discharge from a state institution,
16 and make recommendations as to the advisability of returning the
17 child to his or her home. In case the ~~director~~ department deems
18 it unwise to have any such child returned to his or her former
19 home, such state institution may, with the consent of the ~~director~~,
20 department, place such child into the care of the ~~director~~.
21 department.

22 Sec. 96. Section 43-511, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 43-511 The ~~Director~~ Department of Health and Human
25 Services shall extend the assistance and services herein provided
26 for to all children in rural districts throughout this state, in
27 order that the same benefits and facilities shall be available to

1 children in such districts as in urban areas.

2 Sec. 97. Section 43-512, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-512 (1) Any dependent child as defined in section
5 43-504 or any relative or eligible caretaker of such a dependent
6 child may file with the Department of Health and Human Services
7 a written application for financial assistance for such child on
8 forms furnished by the department.

9 (2) The department, through its agents and employees,
10 shall make such investigation pursuant to the application as it
11 deems necessary or as may be required by the county attorney
12 or authorized attorney. If the investigation or the application
13 for financial assistance discloses that such child has a parent
14 or stepparent who is able to contribute to the support of such
15 child and has failed to do so, a copy of the finding of such
16 investigation and a copy of the application shall immediately be
17 filed with the county attorney or authorized attorney.

18 (3) The department shall make a finding as to whether the
19 application referred to in subsection (1) of this section should
20 be allowed or denied. If the department finds that the application
21 should be allowed, the department shall further find the amount
22 of monthly assistance which should be paid with reference to such
23 dependent child. Except as may be otherwise provided, payments
24 shall be made by state warrant, and the amount of payments shall
25 not exceed three hundred dollars per month when there is but
26 one dependent child and one eligible caretaker in any home, plus
27 an additional seventy-five dollars per month on behalf of each

1 additional eligible person. No payments shall be made for amounts
2 totaling less than ten dollars per month except in the recovery of
3 overpayments.

4 (4) The amount which shall be paid as assistance with
5 respect to a dependent child shall be based in each case upon the
6 conditions disclosed by the investigation made by the department.
7 An appeal shall lie from the finding made in each case to the
8 chief executive officer of the department or his or her designated
9 representative. ~~to the Director of Health and Human Services.~~ Such
10 appeal may be taken by any taxpayer or by any relative of such
11 child. Proceedings for and upon appeal shall be conducted in the
12 same manner as provided for in section 68-1016.

13 (5) (a) For the purpose of preventing dependency,
14 the ~~director~~ department shall adopt and promulgate rules and
15 regulations providing for services to former and potential
16 recipients of aid to dependent children and medical assistance
17 benefits. The ~~director~~ department shall adopt and promulgate rules
18 and regulations establishing programs and cooperating with programs
19 of work incentive, work experience, job training, and education.
20 The provisions of this section with regard to determination of
21 need, amount of payment, maximum payment, and method of payment
22 shall not be applicable to families or children included in such
23 programs.

24 (b) If a recipient of aid to dependent children becomes
25 ineligible for aid to dependent children as a result of increased
26 hours of employment or increased income from employment after
27 having participated in any of the programs established pursuant to

1 subdivision (a) of this subsection, the recipient may be eligible
2 for the following benefits, as provided in rules and regulations of
3 the department in accordance with sections 402, 417, and 1925 of
4 the federal Social Security Act, as amended, Public Law 100-485,
5 in order to help the family during the transition from public
6 assistance to independence:

7 (i) An additional aid to dependent children payment in
8 the amount of one-half of the previous month's aid to dependent
9 children grant;

10 (ii) Child care as provided in subdivision (1)(c) of
11 section 68-1724; and

12 (iii) Except as may be provided in accordance with
13 subsection (2) of section 68-1713 and subdivision (1)(c) of section
14 68-1724, medical assistance for up to twelve months after the month
15 the recipient becomes employed and is no longer eligible for aid to
16 dependent children.

17 (6) For purposes of sections 43-512 to 43-512.10 and
18 43-512.12 to 43-512.18:

19 (a) Authorized attorney shall mean an attorney, employed
20 by the county subject to the approval of the county board, employed
21 by the department, or appointed by the court, who is authorized
22 to investigate and prosecute child, spousal, and medical support
23 cases. An authorized attorney shall represent the state as provided
24 in section 43-512.03;

25 (b) Child support shall be defined as provided in section
26 43-1705;

27 (c) Medical support shall include all expenses associated

1 with the birth of a child and, if required pursuant to section
2 42-369 or 43-290, medical and hospital insurance coverage or
3 membership in a health maintenance organization or preferred
4 provider organization;

5 (d) Spousal support shall be defined as provided in
6 section 43-1715;

7 (e) State Disbursement Unit shall be defined as provided
8 in section 43-3341; and

9 (f) Support shall be defined as provided in section
10 43-3313.

11 Sec. 98. Section 43-512.11, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 43-512.11 The ~~Director~~ Department of Health and Human
14 Services shall report annually, not later than February 1 of each
15 year, to the Legislature regarding the effectiveness of programs
16 established pursuant to subdivision (5)(a) of section 43-512. The
17 report shall include, but not be limited to:

18 (1) The number of program participants;

19 (2) The number of program participants who become
20 employed, whether such employment is full time or part time or
21 subsidized or unsubsidized, and whether the employment was retained
22 for at least thirty days;

23 (3) Supportive services provided to participants in the
24 program;

25 (4) Grant reductions realized; and

26 (5) A cost and benefit statement for the program.

27 Sec. 99. Section 43-515, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-515 In each case the ~~Director~~ Department of Health and
3 Human Services shall make such investigation and reinvestigations
4 as may be necessary to determine family circumstances and
5 eligibility for assistance payments. Each applicant and recipient
6 shall be notified in writing as to the approval or disapproval
7 of any application, as to the amount of payments awarded, as
8 to any change in the amount of payments awarded, and as to the
9 discontinuance of payments.

10 Sec. 100. Section 43-522, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 43-522 The ~~Director of Finance and Support~~ Department
13 of Health and Human Services shall expend state assistance funds
14 allocated for medically handicapped children to supplement other
15 state, county, and municipal, benevolent, fraternal, and charitable
16 expenditures, to extend and improve, especially in rural areas
17 and in areas suffering from severe economic distress, services
18 for locating physically and medically handicapped children and for
19 providing medical, surgical, correction, and other services and
20 care, and facilities for diagnosis, hospitalization, and aftercare,
21 for children who are physically or medically handicapped or who
22 are suffering from conditions which lead to medical handicaps.
23 Expenditures and services shall be uniformly distributed so far as
24 possible or practicable under conditions and circumstances which
25 may be found to exist.

26 Sec. 101. Section 43-523, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 43-523 The ~~Director~~ Department of Health and Human
2 Services shall make such reports to the Department of Health
3 and Human Services of the United States in such form and containing
4 such information as such department may from time to time require,
5 and the department shall comply with such provisions as ~~he or she~~
6 ~~may from time to time find~~ necessary, to assure the correctness of
7 such reports.

8 Sec. 102. Section 43-524, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 43-524 The ~~Director of Finance and Support~~ Department of
11 Health and Human Services shall cooperate with medical, health,
12 nursing, and welfare groups and organizations and with any agency
13 in the state charged with providing for local rehabilitation of
14 physically handicapped children.

15 Sec. 103. Section 43-525, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-525 The Department of Health and Human Services
18 ~~through its director~~ shall expend state assistance funds allocated
19 for child welfare services in establishing, extending, and
20 strengthening, especially in rural areas, child welfare services
21 mentioned in sections 43-501 to 43-526, for which other funds are
22 not specifically or sufficiently made available by such sections or
23 other laws of this state.

24 Sec. 104. Section 43-529, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 43-529 (1) Payments with respect to any dependent child,
27 including payments to meet the needs of the relative with whom such

1 child is living, such relative's spouse, and the needs of any other
2 individual living in the same home as such child and relative if
3 such needs are taken into account in making the determination for
4 eligibility of such child to receive aid to families with dependent
5 children, may be made on behalf of such child, relative, and
6 other person to either (a) another individual who, in accordance
7 with standards set by the ~~Director~~ Department of Health and Human
8 Services, is interested in or concerned with the welfare of such
9 child or relative, or (b) directly to a person or entity furnishing
10 food, living accommodations, or other goods, services, or items to
11 or for such child, relative, or other person, or (c) both such
12 individual and such person or entity.

13 (2) No such payments shall be made unless all of the
14 following conditions are met: (a) The ~~director~~ department has
15 determined that the relative of such child with respect to whom
16 such payments are made has such inability to manage funds that
17 making payments to him or her would be contrary to the welfare
18 of the child and that it is therefor necessary to provide such
19 aid with respect to such child and relative through payments
20 described above to another interested individual, (b) the ~~director~~
21 department has made arrangements for undertaking and continuing
22 special efforts to develop greater ability on the part of the
23 relative to manage funds in such a manner as to protect the
24 welfare of the family, and (c) the ~~director~~ department has approved
25 a plan that provides for a periodic review to ascertain whether
26 conditions justifying such payments still exist, with provision for
27 termination of such payments if such conditions no longer exist and

1 for judicial appointment of a guardian or conservator if it appears
2 that the need for such special payments is continuing or is likely
3 to continue beyond a period specified by the ~~director~~ department.

4 Sec. 105. Section 43-536, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 43-536 In determining the rate of reimbursement for child
7 care, the Department of Health and Human Services ~~Finance and~~
8 ~~Support~~ shall conduct a market rate survey of the child care
9 providers in the state. The ~~Department of Health and Human Services~~
10 department shall adjust the reimbursement rate for child care every
11 odd-numbered year at a rate not less than the sixtieth percentile
12 and not to exceed the seventy-fifth percentile of the current
13 market rate survey, except that (1) nationally accredited child
14 care providers may be reimbursed at higher rates and (2) for the
15 two fiscal years beginning July 1, 2003, such rate may be less than
16 the sixtieth percentile but shall not be less than the rate for the
17 immediately preceding fiscal year.

18 Sec. 106. Section 43-905, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-905 (1) The Department of Health and Human Services
21 shall be the legal guardian of all children committed to it. The
22 department shall afford temporary care and shall use special
23 diligence to provide suitable homes for such children. The
24 department is authorized to place such children in suitable
25 families for adoption or, in the discretion of the department,
26 on a written contract.

27 (2) The contract shall provide (a) for the children's

1 education in the public schools or otherwise, (b) for teaching them
2 some useful occupation, and (c) for kind and proper treatment as
3 members of the family in which they are placed.

4 (3) Whenever any child who has been committed to
5 the ~~Department of Health and Human Services~~ department becomes
6 self-supporting, the ~~Director of Health and Human Services~~
7 department shall declare that fact and the guardianship of the
8 department shall cease. Thereafter the child shall be entitled
9 to his or her own earnings. Guardianship of and services by the
10 department shall never extend beyond the age of majority, except
11 that services by the department to a child shall continue until
12 the child reaches the age of twenty-one if the child is a student
13 regularly attending a school, college, or university or regularly
14 attending a course of vocational or technical training designed to
15 prepare such child for gainful employment.

16 (4) Whenever the parents of any ward, whose parental
17 rights have not been terminated, have become able to support and
18 educate their child, the department shall restore the child to his
19 or her parents if the home of such parents would be a suitable
20 home. The guardianship of the department shall then cease.

21 (5) Whenever permanent free homes for the children cannot
22 be obtained, the department shall have the authority to provide
23 and pay for the maintenance of the children in private families,
24 boarding homes, or institutions for care of children.

25 Sec. 107. Section 43-907, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 43-907 Unless a guardian shall have been appointed by a

1 court of competent jurisdiction, the ~~Director~~ Department of Health
2 and Human Services shall take custody of and exercise general
3 control over assets owned by children under ~~his or her~~ the charge
4 of the department. Children owning assets shall at all times pay
5 for personal items. Assets over and above a maximum of one thousand
6 dollars and current income shall be available for reimbursement
7 to the state for the cost of care. Assets may be deposited in
8 a checking account, invested in United States bonds, or deposited
9 in a savings account insured by the United States Government. All
10 income received from the investment or deposit of assets shall
11 be credited to the individual child whose assets were invested or
12 deposited. The ~~director~~ department shall make and maintain detailed
13 records showing all receipts, investments, and expenditures of
14 assets owned by children under ~~his or her~~ the charge of the
15 department.

16 Sec. 108. Section 43-908, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 43-908 An attempt shall be made by the ~~Director~~
19 Department of Health and Human Services to locate children who
20 arrive at the age of majority for the purpose of delivering and
21 transferring to any such child such funds or property as he or she
22 may own. In the event that such child cannot be located within five
23 years after the child arrives at the age of majority, any funds
24 or assets owned by him or her shall be transferred to the state
25 treasury of the State of Nebraska.

26 Sec. 109. Section 43-1320, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 43-1320 (1) The Legislature finds and declares that
2 foster parents are a valuable resource providing an important
3 service to the citizens of Nebraska. The Legislature recognizes
4 that the current insurance crisis has adversely affected some
5 foster parents in several ways. Foster parents have been unable
6 to obtain liability insurance coverage over and above homeowner's
7 or tenant's coverage for actions filed against them by the foster
8 child, the child's parents, or the child's legal guardian. In
9 addition, the monthly payment made to foster parents is not
10 sufficient to cover the cost of obtaining extended coverage and
11 there is no mechanism in place by which foster parents can
12 recapture the cost. Foster parents' personal resources are at risk,
13 and therefor the Legislature desires to provide relief to address
14 these problems.

15 (2) The Department of Health and Human Services ~~Finance~~
16 ~~and Support~~ shall provide for self-insuring the foster parent
17 program pursuant to section 81-8,239.01 or shall provide and pay
18 for liability and property damage insurance for participants in a
19 family foster parent program who have been licensed or approved to
20 provide care or who have been licensed or approved by a legally
21 established Indian tribal council operating within the state to
22 provide care.

23 (3) There is hereby created the Foster Parent Liability
24 and Property Damage Fund. The fund shall be administered by the
25 Department of Health and Human Services ~~Finance and Support~~ and
26 shall be used to provide funding for self-insuring the foster
27 parent program pursuant to section 81-8,239.01 or to purchase any

1 liability and property damage insurance policy provided pursuant
2 to subsection (2) of this section and reimburse foster parents for
3 unreimbursed liability and property damage incurred or caused by a
4 foster child as the result of acts covered by the insurance policy.
5 Claims for unreimbursed liability and property damage incurred or
6 caused by a foster child may be submitted in the manner provided
7 in the State Miscellaneous Claims Act. Each claim shall be limited
8 to the amount of any deductible applicable to the insurance policy
9 provided pursuant to subsection (2) of this section, and there
10 may be a fifty-dollar deductible payable by the foster parent per
11 claim. ~~The Department of Health and Human Services Finance and~~
12 ~~Support~~ department shall adopt and promulgate rules and regulations
13 to carry out this section. Any money in the fund available for
14 investment shall be invested by the state investment officer
15 pursuant to the Nebraska Capital Expansion Act and the Nebraska
16 State Funds Investment Act.

17 Sec. 110. Section 43-1408.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 43-1408.01 (1) During the period immediately before or
20 after the in-hospital birth of a child whose mother was not married
21 at the time of either conception or birth of the child or at
22 any time between conception and birth of the child, the person in
23 charge of such hospital or his or her designated representative
24 shall provide to the child's mother and alleged father, if the
25 alleged father is readily identifiable and available, the documents
26 and written instructions for such mother and father to complete
27 a notarized acknowledgment of paternity. Such acknowledgment, if

1 signed by both parties and notarized, shall be filed with the
2 Department of Health and Human Services ~~Finance and Support~~ at the
3 same time at which the certificate of live birth is filed.

4 Nothing in this section shall be deemed to require the
5 person in charge of such hospital or his or her designee to seek
6 out or otherwise locate an alleged father who is not readily
7 identifiable or available.

8 (2) The acknowledgment shall be executed on a form
9 prepared by the ~~Department of Health and Human Services Finance~~
10 ~~and Support~~ department. Such form shall be in essentially the
11 same form provided by the department and used for obtaining
12 signatures required by section 71-640.02. The acknowledgment shall
13 include, but not be limited to, (a) a statement by the mother
14 consenting to the acknowledgment of paternity and a statement that
15 the alleged father is the biological father of the child, (b) a
16 statement by the alleged father that he is the biological father
17 of the child, (c) written information regarding parental rights
18 and responsibilities, and (d) the social security numbers of the
19 parents. ~~In addition to distribution required by this section, the~~
20 ~~form shall also be made available to the Department of Health and~~
21 ~~Human Services for distribution.~~

22 (3) The form provided for in subsection (2) of this
23 section shall also contain instructions for completion and filing
24 with the ~~Department of Health and Human Services Finance and~~
25 ~~Support~~ department if it is not completed and filed with a birth
26 certificate as provided in subsection (1) of this section.

27 (4) The ~~Department of Health and Human Services Finance~~

1 ~~and Support~~ department shall accept completed acknowledgment
2 forms and make available to ~~the Department of Health and Human~~
3 ~~Services,~~ county attorneys, or authorized attorneys a record of
4 acknowledgments it has received, as provided in subsection (1) of
5 section 71-612. ~~The Department of Health and Human Services Finance~~
6 ~~and Support~~ department may prepare photographic, electronic, or
7 other reproductions of acknowledgments. Such reproductions, when
8 certified and approved by the ~~Department of Health and Human~~
9 ~~Services Finance and Support,~~ department, shall be accepted as
10 the original records, and the documents from which permanent
11 reproductions have been made may be disposed of as provided
12 by rules and regulations of the ~~Department of Health and Human~~
13 ~~Services Finance and Support-~~ department.

14 (5) ~~The Department of Health and Human Services~~
15 department may by regulation establish a nominal payment and
16 procedure for payment by the department for each acknowledgment
17 filed with the ~~Department of Health and Human Services Finance and~~
18 ~~Support-~~ department. The amount of such payments and the entities
19 receiving such payments shall be within the limits allowed by Title
20 IV-D of the federal Social Security Act, as amended.

21 Sec. 111. Section 43-1414, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-1414 (1) In any proceeding to establish paternity,
24 the court may, on its own motion, or shall, on a timely request
25 of a party, after notice and hearing, require the child, the
26 mother, and the alleged father to submit to genetic testing to
27 be performed on blood or any other appropriate genetic testing

1 material. Failure to comply with such requirement for genetic
2 testing shall constitute contempt and may be dealt with in the
3 same manner as other contempts. If genetic testing is required,
4 the court shall direct that inherited characteristics be determined
5 by appropriate testing procedures and shall appoint an expert in
6 genetic testing and qualified as an examiner of genetic markers to
7 analyze and interpret the results and to report to the court. The
8 court shall determine the number of experts required.

9 (2) In any proceeding to establish paternity, the
10 ~~Director~~ Department of Health and Human Services, county attorneys,
11 and authorized attorneys have the authority to require the child,
12 the mother, and the alleged father to submit to genetic testing
13 to be performed on blood or any other appropriate genetic testing
14 material. All genetic testing shall be performed by a laboratory
15 accredited by the College of American Pathologists or any other
16 national accrediting body or public agency which has requirements
17 that are substantially equivalent to or more comprehensive than
18 those of the college.

19 (3) Except as authorized under sections 43-1414 to
20 43-1418, a person shall not disclose information obtained from
21 genetic paternity testing that is done pursuant to such sections.

22 (4) If an alleged father who is tested as part of an
23 action under such sections is found to be the child's father,
24 the testing laboratory shall retain the genetic testing material
25 of the alleged father, mother, and child for no longer than the
26 period of years prescribed by the national standards under which
27 the laboratory is accredited. If a man is found not to be the

1 child's father, the testing laboratory shall destroy the man's
2 genetic testing material in the presence of a witness after such
3 material is used in the paternity action. The witness may be an
4 individual who is a party to the destruction of the genetic testing
5 material. After the man's genetic testing material is destroyed,
6 the testing laboratory shall make and keep a written record of the
7 destruction and have the individual who witnessed the destruction
8 sign the record. The testing laboratory shall also expunge its
9 records regarding the genetic paternity testing performed on the
10 genetic testing material in accordance with the national standards
11 under which the laboratory is accredited. The testing laboratory
12 shall retain the genetic testing material of the mother and child
13 for no longer than the period of years prescribed by the national
14 standards under which the laboratory is accredited. After a testing
15 laboratory destroys an individual's genetic testing material as
16 provided in this subsection, it shall notify the adult individual,
17 or the parent or legal guardian of a minor individual, by certified
18 mail that the genetic testing material was destroyed.

19 (5) A testing laboratory is required to protect the
20 confidentiality of genetic testing material, except as required for
21 a paternity determination. The court and its officers shall not use
22 or disclose genetic testing material for a purpose other than the
23 paternity determination.

24 (6) A person shall not buy, sell, transfer, or offer
25 genetic testing material obtained under sections 43-1414 to
26 43-1418.

27 (7) A testing laboratory shall annually have an

1 independent audit verifying the contracting laboratory's compliance
2 with this section. The audit shall not disclose the names of, or
3 otherwise identify, the test subjects required to submit to testing
4 during the previous year. The testing laboratory shall forward the
5 audit to the department.

6 (8) Any person convicted of violating this section shall
7 be guilty of a Class IV misdemeanor for the first offense and a
8 Class III misdemeanor for the second or subsequent offense.

9 (9) For purposes of sections 43-1414 to 43-1418, an
10 expert in genetic testing means a person who has formal doctoral
11 training or postdoctoral training in human genetics.

12 Sec. 112. Section 43-1718.02, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-1718.02 (1) In any case in which services are not
15 provided under Title IV-D of the federal Social Security Act, as
16 amended, and a support order has been issued or modified on or
17 after July 1, 1994, the obligor's income shall be subject to income
18 withholding regardless of whether or not payments pursuant to such
19 order are in arrears, and the court shall require such income
20 withholding in its order unless:

21 (a) One of the parties demonstrates and the court
22 finds that there is good cause not to require immediate income
23 withholding; or

24 (b) A written agreement between the parties providing an
25 alternative arrangement is incorporated into the support order.

26 (2) If the court pursuant to subsection (1) of this
27 section orders income withholding regardless of whether or not

1 payments are in arrears, the obligor shall prepare a notice
2 to withhold income. The notice to withhold income shall be
3 substantially similar to a prototype prepared by the ~~Department~~
4 ~~of Health and Human Services~~ department and made available by the
5 department to the State Court Administrator and the clerks of the
6 district courts. The notice to withhold shall direct:

7 (a) That the employer or other payor shall withhold from
8 the obligor's disposable income the amount stated in the notice
9 to withhold for the purpose of satisfying the obligor's ongoing
10 obligation for support payments as they become due and if there are
11 arrearages, reducing such arrearages in child, spousal, or medical
12 support payments arising from the obligor's failure to fully comply
13 with a support order;

14 (b) That the employer or other payor shall pay to the
15 obligor, on his or her regularly scheduled payday, such income then
16 due which is not required to be withheld as stated on the notice or
17 pursuant to any court order;

18 (c) That the employer or other payor shall not withhold
19 more than the maximum amount permitted to be withheld under section
20 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C.
21 1673(b)(2)(A) and (B), and the amount withheld to satisfy an
22 arrearage of child, spousal, or medical support when added to the
23 amount withheld to pay current support and the fee provided for in
24 subdivision (2)(d) of this section shall not exceed such maximum
25 amount;

26 (d) That the employer or other payor may assess an
27 additional administrative fee from the obligor's disposable income

1 not to exceed two dollars and fifty cents in any calendar month
2 as compensation for the employer's or other payor's reasonable cost
3 incurred in complying with the notice;

4 (e) That the employer or other payor shall remit, within
5 seven days after the date the obligor is paid and in the manner
6 specified in the notice, the income withheld, less the deduction
7 allowed as an administrative fee by subdivision (2)(d) of this
8 section, to the State Disbursement Unit and shall notify the unit
9 of the date such income was withheld;

10 (f) That the notice to withhold income shall terminate
11 with respect to the employer or other payor without any court
12 action or action by the obligor thirty days after the obligor
13 ceases employment with or is no longer entitled to income from such
14 employer or other payor;

15 (g) That the employer or other payor may combine amounts
16 required to be withheld from the income of two or more obligors in
17 a single payment to the unit if the portion of the single payment
18 which is attributable to each individual obligor is separately
19 identified;

20 (h) That an employer or other payor who fails to withhold
21 and remit income of an obligor after receiving proper notice or who
22 discriminates, demotes, disciplines, or terminates an employee or
23 payee after receiving a notice to withhold income shall be subject
24 to the penalties prescribed in subsections (4) and (5) of this
25 section; and

26 (i) That if the employer or other payor receives more
27 than one notice to withhold income of a single obligor and the

1 amount of income available to be withheld pursuant to the limits
2 specified in subdivision (c) of this subsection is insufficient
3 to satisfy the total support amount certified in the notices, the
4 income available shall first be applied to current support. If the
5 total amount of income available to be withheld is insufficient
6 to satisfy the total amount of current support certified by the
7 notices, the employer or other payor shall withhold for each notice
8 the proportion that the amount of the current support certified in
9 such notice bears to the total amount of current support certified
10 in all notices received for the obligor. Any remaining income
11 available to be withheld after current support is satisfied for all
12 notices shall be applied to arrearages. If arrearages are certified
13 in more than one notice, the employer or other payor shall withhold
14 for each notice the proportion that the amount of the arrearage
15 certified in such notice bears to the total amount of arrearage
16 certified in all notices received for the obligor.

17 Compliance with the order by the employer or other payor
18 shall operate as a discharge of the employer's or other payor's
19 liability to the obligor as to the portion of the obligor's income
20 withheld.

21 (3) The obligor shall deliver the notice to withhold
22 income to his or her current employer or other payor and provide a
23 copy of such notice to the clerk of the district court.

24 (4) Any employer or other payor who fails to withhold and
25 remit any income of an obligor receiving income from the employer
26 or other payor, after proper notice as provided in subsection (2)
27 of this section, shall be required to pay to the unit the amount

1 specified in the notice.

2 (5) An employer or other payor shall not use an order or
3 notice to withhold income or order or the possibility of income
4 withholding as a basis for (a) discrimination in hiring, (b)
5 demotion of an employee or payee, (c) disciplinary action against
6 an employee or payee, or (d) termination of an employee or payee.

7 Upon application by the obligor and after a hearing on
8 the matter, the court may impose a civil fine of up to five hundred
9 dollars for each violation of this subsection.

10 An employer or other payor who violates this subsection
11 shall be required to make full restitution to the aggrieved
12 employee or payee, including reinstatement and backpay.

13 (6) When an obligor ceases employment with or is no
14 longer entitled to income from an employer or other payor, the
15 notice to withhold income shall not cease to operate against the
16 obligor and income withholding shall continue to apply to any
17 subsequent employment or income of the obligor. The notice to
18 withhold income shall terminate with respect to the employer or
19 other payor without any court action or action by the obligor
20 thirty days after the obligor ceases employment with or is no
21 longer entitled to income from such employer or other payor. A
22 notice to withhold income shall also terminate when the child,
23 spousal, or medical support obligation terminates and all past-due
24 support has been paid, in which case the obligor shall notify the
25 employer or other payor to cease withholding income.

26 (7) A notice to withhold income may be modified or
27 revoked by a court of competent jurisdiction as a result of

1 modification of the support order. A notice to withhold income may
2 also be modified or revoked by a court of competent jurisdiction,
3 for other good cause shown, after notice and a hearing on the
4 issue.

5 (8) The obligee or obligor may file an action in district
6 court to enforce this section.

7 (9) If after an order is issued in any case under this
8 section the case becomes one in which services are provided under
9 Title IV-D of the federal Social Security Act, as amended, the
10 county attorney or authorized attorney or the ~~Director~~ Department
11 of Health and Human Services shall implement income withholding as
12 otherwise provided in the Income Withholding for Child Support Act.

13 Sec. 113. Section 43-1720, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 43-1720 If the ~~Director~~ of Health and Human Services
16 department has previously sent a notice of assignment and
17 opportunity for hearing on the same support order under section
18 48-647, the county attorney, authorized attorney, or the department
19 shall certify the amount to be withheld from an obligor's
20 disposable income pursuant to section 43-1722 and shall notify the
21 obligor's employer or other payor pursuant to section 43-1723. If
22 the ~~director~~ department has not previously sent such notice, and
23 except in cases in which the court has ordered income withholding
24 pursuant to subsection (1) of section 43-1718.01 or section
25 43-1718.02, upon receiving certification pursuant to section 42-358
26 or notice of delinquent payments of medical support, the county
27 attorney, the authorized attorney, or the department shall send a

1 notice by certified mail to the last-known address of the obligor
2 stating:

3 (1) That an assignment of his or her income by means of
4 income withholding will go into effect within fifteen days after
5 the date the notice is sent;

6 (2) That the income withholding will continue to apply to
7 any subsequent employer or other payor of the obligor;

8 (3) The amount of support the obligor owes;

9 (4) The amount of income that will be withheld; and

10 (5) That within the fifteen-day period, the obligor may
11 request a hearing in the manner specified in the notice to contest
12 a mistake of fact. For purposes of this subdivision, mistake of
13 fact shall mean (a) an error in the amount of current or overdue
14 support, (b) an error in the identity of the obligor, or (c) an
15 error in the amount to be withheld as provided in section 43-1722.

16 Sec. 114. Section 43-1902, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 43-1902 As used in sections 43-1901 to 43-1906, unless
19 the context otherwise requires:

20 (1) Board ~~shall mean~~ means the Nebraska Child Abuse
21 Prevention Fund Board;

22 (2) Department ~~shall mean~~ means the Department of Health
23 and Human Services; and

24 ~~(3) Director shall mean the Director of Health and Human~~
25 ~~Services; and~~

26 ~~(4) (3) Fund shall mean~~ means the Nebraska Child Abuse
27 Prevention Fund.

1 Sec. 115. Section 43-1903, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-1903 (1) There is hereby created within the department
4 the Nebraska Child Abuse Prevention Fund Board which shall be
5 composed of nine members as follows: ~~The Director of Health and~~
6 ~~Human Services,~~ ~~the Director of Regulation and Licensure,~~ Two
7 representatives of the Department of Health and Human Services
8 appointed by the chief executive officer and seven members to be
9 appointed by the Governor with the approval of the Legislature.
10 The Governor shall appoint two members from each of the three
11 congressional districts and one member from the state at large.
12 As a group, the appointed board members (a) shall demonstrate
13 knowledge in the area of child abuse and neglect prevention, (b)
14 shall be representative of the demographic composition of this
15 state, and (c) to the extent practicable, shall be representative
16 of all of the following categories (i) the business community,
17 (ii) the religious community, (iii) the legal community, (iv)
18 professional providers of child abuse and neglect prevention
19 services, and (v) volunteers in child abuse and neglect prevention
20 services.

21 (2) The term of each appointed board member shall be
22 three years, except that of the board members first appointed, two,
23 including the at-large member, shall serve for three years, three
24 shall serve for two years, and two shall serve for one year. The
25 Governor shall designate the term which each of the members first
26 appointed shall serve when he or she makes the appointments. An
27 appointed board member shall not serve more than two consecutive

1 terms whether partial or full. A vacancy shall be filled for the
2 balance of the unexpired term in the same manner as the original
3 appointment.

4 (3) The board shall elect a chairperson from among the
5 appointed board members who shall serve for a term of two years.
6 The board may elect the other officers and establish committees as
7 it deems appropriate.

8 (4) The members of the board shall not receive any
9 compensation for their services but shall be reimbursed for their
10 actual and necessary expenses incurred in the performance of
11 their duties as provided in sections 81-1174 to 81-1177. The
12 reimbursement shall be paid from the fund. In any one fiscal
13 year, no more than five percent of the annually available funds
14 as provided in section 43-1906 shall be used for the purpose of
15 reimbursement of board members.

16 (5) Any board member may be removed by the Governor for
17 misconduct, incompetency, or neglect of duty after first being
18 given the opportunity to be heard in his or her own behalf.

19 Sec. 116. Section 43-2002, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-2002 Each year Nebraska children are reported missing.
22 The Legislature is seeking a procedure whereby it can help locate
23 such missing children through school records and birth certificates
24 filed with the schools and the Department of Health and Human
25 Services. ~~Finance and Support.~~

26 Sec. 117. Section 43-2003, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 43-2003 As used in the Missing Children Identification
2 Act, unless the context otherwise requires:

3 (1) County agency means any agency in a county that
4 records and maintains birth certificates;

5 (2) Department means the Department of Health and Human
6 Services; ~~Finance and Support;~~

7 (3) Missing person means a person sixteen years of age or
8 younger reported to any law enforcement agency as abducted or lost;
9 and

10 (4) Patrol means the Nebraska State Patrol.

11 Sec. 118. Section 43-2411, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 43-2411 (1) The Nebraska Coalition for Juvenile Justice
14 is created. As provided in the federal act, there shall be no less
15 than fifteen nor more than thirty-three members of the coalition.
16 The coalition members shall be appointed by the Governor and shall
17 include:

18 (a) The Administrator of the Office of Juvenile Services;

19 (b) ~~The Director of Health and Human Services~~ chief
20 executive officer of the Department of Health and Human Services or
21 his or her designee;

22 (c) The Commissioner of Education or his or her designee;

23 (d) The executive director of the Nebraska Commission on
24 Law Enforcement and Criminal Justice or his or her designee;

25 (e) The Executive Director of the Nebraska Association of
26 County Officials or his or her designee;

27 (f) The probation administrator of the Office of

- 1 Probation Administration or his or her designee;
- 2 (g) One county commissioner or supervisor;
- 3 (h) One police chief;
- 4 (i) One sheriff;
- 5 (j) One separate juvenile court judge;
- 6 (k) One county court judge;
- 7 (l) One representative of mental health professionals who
8 works directly with juveniles;
- 9 (m) Three representatives, one from each congressional
10 district, from community-based, private nonprofit organizations who
11 work with juvenile offenders and their families;
- 12 (n) One volunteer who works with juvenile offenders or
13 potential juvenile offenders;
- 14 (o) One person who works with an alternative to
15 incarceration program for juveniles;
- 16 (p) The director or his or her designee from a youth
17 rehabilitation and treatment center;
- 18 (q) The director or his or her designee from a secure
19 youth confinement facility;
- 20 (r) The director or his or her designee from a staff
21 secure youth confinement facility;
- 22 (s) At least five members who are under twenty-four years
23 of age when appointed;
- 24 (t) One person who works directly with juveniles who have
25 learning or emotional difficulties or are abused or neglected;
- 26 (u) One member of the Nebraska Commission on Law
27 Enforcement and Criminal Justice;

1 (v) One county attorney; and

2 (w) One public defender.

3 (2) The terms of members appointed pursuant to
4 subdivisions (1)(g) through (1)(w) of this section shall be three
5 years, except that the terms of the initial members of the
6 coalition shall be staggered so that one-third of the members
7 are appointed for terms of one year, one-third for terms of two
8 years, and one-third for terms of three years, as determined by
9 the Governor. A majority of the coalition members, including the
10 chairperson, shall not be full-time employees of federal, state,
11 or local government. At least one-fifth of the coalition members
12 shall be under the age of twenty-four at the time of appointment.
13 Any vacancy on the coalition shall be filled by appointment
14 by the Governor. The coalition shall select a chairperson, a
15 vice-chairperson, and such other officers as it deems necessary.

16 (3) Members of the coalition shall be reimbursed for
17 their actual and necessary expenses pursuant to sections 81-1174 to
18 81-1177.

19 (4) The coalition may appoint task forces or
20 subcommittees to carry out its work. Task force and subcommittee
21 members shall have knowledge of, responsibility for, or interest in
22 an area related to the duties of the coalition.

23 Sec. 119. Section 43-2503, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-2503 The purposes of the Early Intervention Act shall
26 be to:

27 (1) Develop and implement a statewide system of

1 comprehensive, coordinated, family-centered, community-based, and
2 culturally competent early intervention services for infants
3 or toddlers with disabilities and their families through the
4 collaboration of the Department of Health and Human Services, ~~the~~
5 ~~Department of Health and Human Services Finance and Support,~~ the
6 State Department of Education, and all other relevant agencies or
7 organizations at the state, regional, and local levels;

8 (2) Establish and implement a billing system for
9 accessing federal medicaid funds;

10 (3) Establish and implement services coordination through
11 a community team approach;

12 (4) Facilitate the coordination of payment for early
13 intervention services from federal, state, local, and private
14 sources including public and private insurance coverage; and

15 (5) Enhance Nebraska's capacity to provide quality
16 early intervention services and expand and improve existing
17 early intervention services being provided to eligible infants or
18 toddlers with disabilities and their families.

19 Sec. 120. Section 43-2505, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 43-2505 For purposes of the Early Intervention Act:

22 (1) Collaborating agencies means the Department of Health
23 and Human Services, ~~the Department of Health and Human Services~~
24 ~~Finance and Support,~~ and the State Department of Education;

25 (2) Developmental delay has the definition found in
26 section 79-1118.01;

27 (3) Early intervention services may include services

1 which:

2 (a) Are designed to meet the developmental needs of each
3 eligible infant or toddler with disabilities and the needs of the
4 family related to enhancing the development of their infant or
5 toddler;

6 (b) Are selected in collaboration with the parent or
7 guardian;

8 (c) Are provided in accordance with an individualized
9 family service plan;

10 (d) Meet all applicable federal and state standards; and

11 (e) Are provided, to the maximum extent appropriate, in
12 natural environments including the home and community settings in
13 which infants and toddlers without disabilities participate;

14 (4) Eligible infant or toddler with disabilities means a
15 child who needs early intervention services and is two years of age
16 or younger, except that toddlers who reach age three during the
17 school year shall remain eligible throughout that school year. The
18 need for early intervention services is established when the infant
19 or toddler experiences developmental delays or any of the other
20 disabilities described in the Special Education Act;

21 (5) Federal early intervention program means the
22 federal early intervention program for infants and toddlers with
23 disabilities, 20 U.S.C. 1471 to 1485;

24 (6) Individualized family service plan means the process,
25 periodically documented in writing, of determining appropriate
26 early intervention services for an eligible infant or toddler with
27 disabilities and his or her family;

1 (7) Interagency planning team means an organized group of
2 interdisciplinary, interagency representatives, community leaders,
3 and family members in each local community or region;

4 (8) Lead agency or agencies means the Department
5 of Health and Human Services, ~~the Department of Health and~~
6 ~~Human Services Finance and Support~~, the State Department of
7 Education, and any other agencies designated by the Governor for
8 general administration, supervision, and monitoring of programs
9 and activities receiving federal funds under the federal early
10 intervention program and state funds appropriated for early
11 intervention services under the Early Intervention Act; and

12 (9) Services coordination means a flexible process of
13 interaction facilitated by a services coordinator to assist the
14 family of an eligible infant or toddler with disabilities within
15 a community to identify and meet their needs pursuant to the
16 act. Services coordination under the act shall not duplicate
17 any case management services which an eligible infant or toddler
18 with disabilities and his or her family are already receiving or
19 eligible to receive from other sources.

20 Sec. 121. Section 43-2507, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 43-2507 (1) Planning for early intervention services
23 shall be the responsibility of each collaborating agency. The
24 planning shall address a statewide system of comprehensive,
25 coordinated, family-centered, community-based, and culturally
26 competent early intervention services to all eligible infants or
27 toddlers with disabilities and their families in Nebraska. The

1 statewide system shall include the following minimum components:

2 (a) A public awareness program, including a central
3 directory;

4 (b) A comprehensive early identification system,
5 including a system for identifying children and making referrals
6 for infants or toddlers who may be eligible for early intervention
7 services;

8 (c) Common intake, referral, and assessment processes,
9 procedures, and forms to determine eligibility of infants and
10 toddlers and their families referred for early intervention
11 services;

12 (d) An individualized family service plan, including
13 services coordination, for each eligible infant or toddler with
14 disabilities and his or her family;

15 (e) A comprehensive system of personnel development;

16 (f) A uniform computer data base and reporting system
17 which crosses agency lines; and

18 (g) Services coordination to access the following early
19 intervention services: Audiology; family training, counseling, and
20 home visits; health services; medical services only for diagnostic
21 or evaluation purposes; nursing services; nutrition services;
22 occupational therapy; physical therapy; psychological services;
23 social work services; special instruction; speech-language
24 pathology; transportation and related costs that are necessary to
25 enable an eligible infant or toddler with disabilities and his
26 or her family to receive early intervention services; assistive
27 technology devices and assistive technology services; vision

1 services; and hearing services.

2 (2) Collaborating agencies shall review standards to
3 ensure that personnel are appropriately and adequately prepared and
4 trained to carry out the Early Intervention Act.

5 (3) Collaborating agencies shall be responsible for
6 designing, supporting, and implementing a statewide training
7 and technical assistance plan which shall address preservice,
8 inservice, and leadership development for service providers and
9 parents of eligible infants and toddlers with disabilities.

10 (4) Policies and procedures shall be jointly examined and
11 analyzed by the collaborating agencies to satisfy data collection
12 requirements under the federal early intervention program and to
13 assure the confidentiality of the data contained in the statewide
14 system. Notwithstanding any other provision of state law, the
15 collaborating agencies shall be permitted to share information and
16 data necessary to carry out the provisions of the federal early
17 intervention program, including the personal identification or
18 other specific information concerning individual infants, toddlers,
19 or their families, except that the vital and medical records
20 and health information concerning individuals provided to the
21 Department of Health and Human Services ~~or the Department of Health~~
22 ~~and Human Services Finance and Support~~ may be released only under
23 the laws authorizing the provision of such records and information.
24 Nothing in this section shall prohibit the use of such data to
25 provide for the preparation of reports, fiscal information, or
26 other documents required by the Early Intervention Act, but no
27 information in such reports, fiscal information, or other documents

1 shall be used in a manner which would allow for the personal
2 identification of an individual infant, toddler, or family.

3 Sec. 122. Section 43-2508, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 43-2508 (1) The Department of Health and Human Services
6 ~~Finance and Support~~ shall be responsible for providing or
7 contracting for services.

8 (2) Whenever possible, the medical assistance program
9 prescribed in the Medical Assistance Act shall be used for payment
10 of services coordination.

11 (3) It is the intent of this section that the department
12 shall apply for and implement a Title XIX medicaid waiver as a way
13 to assist in the provision of services coordination to eligible
14 infants or toddlers with disabilities and their families.

15 Sec. 123. Section 43-2509, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 43-2509 The Department of Health and Human Services and
18 ~~the Department of Health and Human Services Finance and Support~~
19 ~~shall be~~ is responsible for incorporating components required
20 under the federal early intervention program into the state plans
21 developed for the Special Supplemental Nutrition Program for Women,
22 Infants, and Children, the Commodity Supplemental Food Program,
23 the maternal and child health program, and the developmental
24 disabilities program. The ~~departments~~ department shall provide
25 technical assistance, planning, and coordination related to the
26 incorporation of such components.

27 Sec. 124. Section 43-2510, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 43-2510 The Department of Health and Human Services ~~and~~
3 ~~the Department of Health and Human Services Finance and Support~~
4 ~~shall be~~ is responsible for incorporating components required under
5 the federal early intervention program into the mental health
6 and developmental disabilities planning responsibilities of the
7 ~~departments.~~ department. The ~~departments~~ department shall provide
8 technical assistance, planning, and coordination related to the
9 incorporation of such components.

10 Sec. 125. Section 43-2511, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 43-2511 There is hereby established a statewide billing
13 system for accessing federal medicaid funds for special education
14 and related services provided by school districts. The system
15 shall apply to all students verified with disabilities from
16 date of diagnosis to twenty-one years of age as allowed under
17 the federal Medicare Catastrophic Coverage Act of 1988. The
18 system shall be developed jointly by the Department of Health
19 and Human Services, ~~the Department of Health and Human Services~~
20 ~~Finance and Support,~~ and the State Department of Education. School
21 districts, educational service units, or approved cooperatives
22 providing special education and related services shall be required
23 to participate in the statewide billing system. It is the intent
24 of this section that costs to school districts associated with
25 the implementation of such a system shall be eligible for payment
26 through the medicaid reimbursement rates to be established for each
27 therapy.

1 Sec. 126. Section 43-2512, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 43-2512 Each region established pursuant to section
4 79-1135 shall establish an interagency planning team, which
5 planning team shall include representatives from school districts,
6 social services, health and medical services, parents, and
7 mental health, developmental disabilities, Head Start, and other
8 relevant agencies or persons serving children from birth to
9 age five and their families and parents or guardians. Each
10 interagency planning team shall be responsible for assisting in
11 the planning and implementation of the Early Intervention Act in
12 each local community or region. The Department of Health and Human
13 Services, ~~Finance and Support~~, in collaboration with each regional
14 interagency planning team, shall provide or contract for services
15 coordination.

16 Sec. 127. Section 43-2515, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 43-2515 On or before October 1, 1993, and for each year
19 thereafter, the Department of Health and Human Services ~~Finance~~
20 ~~and Support~~ and the State Department of Education shall jointly
21 certify to the budget administrator of the budget division of
22 the Department of Administrative Services the amount of federal
23 medicaid funds paid to school districts pursuant to the Early
24 Intervention Act for special education services for children five
25 years of age and older. The General Fund appropriation to the State
26 Department of Education for state special education aid shall be
27 decreased by an amount equal to the amount that would have been

1 reimbursed with state general funds to the school districts through
2 the special education reimbursement process for special education
3 services for children five years of age and older that was paid
4 to school districts or approved cooperatives with federal medicaid
5 funds.

6 It is the intent of the Legislature that an amount
7 equal to the amount that would have been reimbursed with state
8 general funds to the school districts, certified to the budget
9 administrator, be appropriated from the General Fund to aid in
10 carrying out the provisions of the Early Intervention Act and other
11 related early intervention services.

12 Sec. 128. Section 43-2605, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-2605 For purposes of the Quality Child Care Act:

15 (1) Child care shall mean the care and supervision of
16 children in lieu of parental care and supervision and shall include
17 programs; and

18 (2) Programs shall mean the programs listed in
19 subdivision ~~(3)~~ (2) of section 71-1910.

20 Sec. 129. Section 43-2606, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 43-2606 (1) The Department of Health and Human Services
23 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
24 regulations for mandatory training requirements for providers
25 of child care and school-age-care programs. Such requirements
26 shall include preservice orientation and at least four hours of
27 annual inservice training. All child care programs required to

1 be licensed under section 71-1911 shall show completion of a
2 preservice orientation approved or delivered by the department
3 prior to receiving a provisional license.

4 (2) The department shall initiate a system of documenting
5 the training levels of staff in specific child care settings to
6 assist parents in selecting optimal care settings.

7 (3) The training requirements shall be designed to meet
8 the health, safety, and developmental needs of children and shall
9 be tailored to the needs of licensed providers of child care
10 programs. The training requirements for providers of child care
11 programs shall include, but not be limited to, information on
12 sudden infant death syndrome, shaken baby syndrome, and child
13 abuse.

14 (4) The department shall provide or arrange for training
15 opportunities throughout the state and shall provide information
16 regarding training opportunities to all providers of child care
17 programs at the time of registration or licensure, when renewing a
18 registration, or on a yearly basis following licensure.

19 (5) Each provider of child care and school-age-care
20 programs receiving orientation or training shall provide his or her
21 social security number to the department.

22 (6) The department shall review and provide
23 recommendations to the Governor for updating rules and regulations
24 adopted and promulgated under this section at least every five
25 years.

26 Sec. 130. Section 43-2616, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 43-2616 Notwithstanding any other provision of law,
2 including section 71-1914, family child care homes licensed by the
3 Department of Health and Human Services ~~Regulation and Licensure~~
4 pursuant to section 71-1911 or by a city, village, or county
5 pursuant to subsection (2) of section 71-1914 may be established
6 and operated in any residential zone within the exercised zoning
7 jurisdiction of any city or village.

8 Sec. 131. Section 43-2617, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 43-2617 A provider of a program shall notify the parents
11 of enrolled children of the outbreak of any communicable disease
12 in any child in the program on the same day the provider is
13 informed of or observes the outbreak. The Department of Health and
14 Human Services ~~in consultation with the Department of Health and~~
15 ~~Human Services Regulation and Licensure~~ shall develop appropriate
16 procedures to carry out this section.

17 Sec. 132. Section 43-2620, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 43-2620 The Department of Health and Human Services, ~~the~~
20 ~~Department of Health and Human Services Regulation and Licensure,~~
21 and the State Department of Education shall collaborate in their
22 activities and may:

23 (1) Encourage the development of comprehensive systems
24 of child care programs and early childhood education programs
25 which promote the wholesome growth and educational development of
26 children, regardless of the child's level of ability;

27 (2) Encourage and promote the provision of parenting

1 education, developmentally appropriate activities, and primary
2 prevention services by program providers;

3 (3) Facilitate cooperation between the private and public
4 sectors in order to promote the expansion of child care;

5 (4) Promote continuing study of the need for child care
6 and early childhood education and the most effective methods by
7 which these needs can be served through governmental and private
8 programs;

9 (5) Coordinate activities with other state agencies
10 serving children and families;

11 (6) Strive to make the state a model employer by
12 encouraging the state to offer a variety of child care benefit
13 options to its employees;

14 (7) Provide training for ~~child care~~ early childhood
15 education providers as authorized in sections 79-1101 to 79-1103;

16 (8) Develop and support resource and referral services
17 for parents and providers that will be in place statewide by
18 January 1, 1994;

19 (9) Promote the involvement of businesses and communities
20 in the development of child care throughout the state by providing
21 technical assistance to providers and potential providers of child
22 care;

23 (10) Establish a voluntary accreditation process for
24 public and private child care and early childhood education
25 providers, which process promotes program quality;

26 (11) At least biennially, develop an inventory of
27 programs and early childhood education programs provided to

1 children in Nebraska and identify the number of children receiving
2 and not receiving such services, the types of programs under which
3 the services are received, and the reasons children not receiving
4 the services are not being served; and

5 (12) Support the identification and recruitment of
6 persons to provide child care for children with special needs.

7 Sec. 133. Section 43-3305.01, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-3305.01 ~~Director means the Director~~ Department means
10 the Department of Health and Human Services. ~~or his or her~~
11 ~~designee.~~

12 Sec. 134. Section 43-3314, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 43-3314 (1) When the ~~director~~ department or a county
15 attorney or authorized attorney has made reasonable efforts to
16 verify and has reason to believe that a license holder in a case
17 receiving services under Title IV-D of the Social Security Act, as
18 amended, (a) is delinquent on a support order in an amount equal
19 to the support due and payable for more than a three-month period
20 of time, (b) is not in compliance with a payment plan for amounts
21 due as determined by a county attorney, an authorized attorney,
22 or the ~~Department of Health and Human Services~~ department for
23 such past-due support, or (c) is not in compliance with a payment
24 plan for amounts due under a support order pursuant to a court
25 order for such past-due support, and therefor determines to certify
26 the license holder to the appropriate licensing authority, the
27 ~~director~~, department, county attorney, or authorized attorney shall

1 send written notice to the license holder by certified mail to
2 the last-known address of the license holder or to the last-known
3 address of the license holder available to the court pursuant to
4 section 42-364.13. For purposes of this section, reasonable efforts
5 to verify means reviewing the case file and having written or oral
6 communication with the clerk of the court of competent jurisdiction
7 and with the license holder. Reasonable efforts to verify may also
8 include written or oral communication with custodial parents.

9 (2) The notice shall specify:

10 (a) That the ~~director~~, Department of Health and Human
11 Services, county attorney, or authorized attorney intends to
12 certify the license holder to the Department of Motor Vehicles
13 and to relevant licensing authorities pursuant to subsection (3) of
14 section 43-3318 as a license holder described in subsection (1) of
15 this section;

16 (b) The court or agency of competent jurisdiction which
17 issued the support order or in which the support order is
18 registered;

19 (c) That an enforcement action for a support order will
20 incorporate any amount delinquent under the support order which may
21 accrue in the future;

22 (d) That a license holder who is in violation of a
23 support order can come into compliance by:

24 (i) Paying current support if a current support
25 obligation exists; and

26 (ii) Paying all past-due support or, if unable to pay all
27 past-due support and if a payment plan for such past-due support

1 has not been determined, by making payments in accordance with
2 a payment plan determined by the county attorney, the authorized
3 attorney, or the Department of Health and Human Services for such
4 past-due support; and

5 (e) That within thirty days after issuance of the notice,
6 the license holder may either:

7 (i) Request administrative review in the manner specified
8 in the notice to contest a mistake of fact. Mistake of fact means
9 an error in the identity of the license holder or an error in the
10 determination of whether the license holder is a license holder
11 described in subsection (1) of this section; or

12 (ii) Seek judicial review by filing a petition in the
13 court of competent jurisdiction of the county where the support
14 order was issued or registered or, in the case of a foreign
15 support order not registered in Nebraska, the court of competent
16 jurisdiction of the county where the child resides if the child
17 resides in Nebraska or the court of competent jurisdiction of the
18 county where the license holder resides if the child does not
19 reside in Nebraska.

20 Sec. 135. Section 43-3317, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-3317 Any person aggrieved by a decision of the
23 ~~Department of Health and Human Services~~ department pursuant to
24 section 43-3316 may, upon exhaustion of the procedures for
25 administrative review provided under the Administrative Procedure
26 Act, seek judicial review within ten days after the issuance
27 of notice of the ~~Department of Health and Human Services~~

1 department's decision pursuant to section 43-3316. Notwithstanding
2 subdivision (2)(a) of section 84-917, proceedings for review shall
3 be instituted by filing a petition in the court of competent
4 jurisdiction of the county where the support order was issued
5 or registered or, in the case of a foreign support order not
6 registered in Nebraska, the court of competent jurisdiction as
7 specified in subdivision (2)(e)(ii) of section 43-3314.

8 Sec. 136. Section 43-3318, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 43-3318 (1) The ~~director~~, Department of Health and
11 Human Services, county attorney, authorized attorney, or court
12 of competent jurisdiction may certify in writing to the Department
13 of Motor Vehicles, relevant licensing authorities, and, if the
14 license holder is a member of the Nebraska State Bar Association,
15 the Counsel for Discipline of the Nebraska Supreme Court, that a
16 license holder is a license holder described in subsection (1) of
17 section 43-3314 if:

18 (a) The license holder does not timely request either
19 administrative review or judicial review upon issuance of a notice
20 under subsection (2) of section 43-3314, is still a license holder
21 described in subsection (1) of section 43-3314 thirty-one days
22 after issuance of the notice, and does not obtain a written
23 confirmation of compliance from the Department of Health and
24 Human Services, county attorney, or authorized attorney pursuant
25 to section 43-3320 within thirty-one days after issuance of the
26 notice;

27 (b) The Department of Health and Human Services issues a

1 decision after a hearing that finds the license holder is a license
2 holder described in subsection (1) of section 43-3314, the license
3 holder is still a license holder described in such subsection
4 thirty-one days after issuance of that decision, and the license
5 holder does not seek judicial review of the decision within the
6 ten-day appeal period provided in section 43-3317; or

7 (c) The court of competent jurisdiction enters a judgment
8 on a petition for judicial review, initiated under either section
9 43-3315 or 43-3317, that finds the license holder is a license
10 holder described in subsection (1) of section 43-3314.

11 (2) The court of competent jurisdiction, after providing
12 appropriate notice, may certify a license holder to the Department
13 of Motor Vehicles and relevant licensing authorities if a license
14 holder has failed to comply with subpoenas or warrants relating to
15 paternity or child support proceedings.

16 (3) If the ~~director~~, Department of Health and Human
17 Services, county attorney, authorized attorney, or court of
18 competent jurisdiction determines to certify a license holder to
19 the appropriate licensing authority, then the ~~director~~, department,
20 county attorney, authorized attorney, or court of competent
21 jurisdiction shall certify a license holder in the following order
22 and in compliance with the following restrictions:

23 (a) To the Department of Motor Vehicles to suspend the
24 license holder's operator's license, except the Department of Motor
25 Vehicles shall not suspend the license holder's commercial driver's
26 license or restricted commercial driver's license. If a license
27 holder possesses a commercial driver's license or restricted

1 commercial driver's license, the ~~director,~~ Department of Health and
2 Human Services, county attorney, authorized attorney, or court of
3 competent jurisdiction shall certify such license holder pursuant
4 to subdivision (b) of this subsection. If the license holder
5 fails to come into compliance with the support order as provided
6 in section 43-3314 or with subpoenas and warrants relating to
7 paternity or child support proceedings within ten working days
8 after the date on which the license holder's operator's license
9 suspension becomes effective, then the ~~director,~~ department, county
10 attorney, authorized attorney, or court of competent jurisdiction
11 may certify the license holder pursuant to subdivision (b) of this
12 subsection without further notice;

13 (b) To the relevant licensing authority to suspend
14 the license holder's recreational license once the Game and
15 Parks Commission has operative the electronic or other automated
16 retrieval system necessary to suspend recreational licenses. If
17 the license holder does not have a recreational license and until
18 the Game and Parks Commission has operative the electronic or
19 other automated retrieval system necessary to suspend recreational
20 licenses, the ~~director,~~ department, county attorney, authorized
21 attorney, or court of competent jurisdiction may certify the
22 license holder pursuant to subdivision (c) of this subsection.
23 If the license holder fails to come into compliance with the
24 support order as provided in section 43-3314 or with subpoenas and
25 warrants relating to paternity or child support proceedings within
26 ten working days after the date on which the license holder's
27 recreational license suspension becomes effective, the ~~director,~~

1 department, county attorney, authorized attorney, or court of
2 competent jurisdiction may certify the license holder pursuant to
3 subdivision (c) of this subsection without further notice; and

4 (c) To the relevant licensing authority to suspend
5 the license holder's professional license, occupational license,
6 commercial driver's license, or restricted commercial driver's
7 license.

8 (4) If the ~~director,~~ Department of Health and Human
9 Services, county attorney, authorized attorney, or court of
10 competent jurisdiction certifies the license holder to the
11 Department of Motor Vehicles, the Department of Motor Vehicles
12 shall suspend the operator's license of the license holder ten
13 working days after the date of certification. The Department of
14 Motor Vehicles shall without undue delay notify the license holder
15 by certified mail that the license holder's operator's license
16 will be suspended and the date the suspension becomes effective.
17 No person shall be issued an operator's license by the State of
18 Nebraska if at the time of application for a license the person's
19 operator's license is suspended under this section. Any person
20 whose operator's license has been suspended shall return his or her
21 license to the Department of Motor Vehicles within five working
22 days after receiving the notice of the suspension. If any person
23 fails to return the license, the Department of Motor Vehicles shall
24 direct any peace officer to secure possession of the operator's
25 license and to return it to the Department of Motor Vehicles.
26 The peace officer who is directed to secure possession of the
27 license shall make every reasonable effort to secure the license

1 and return it to the Department of Motor Vehicles or shall show
2 good cause why the license cannot be returned. An appeal of the
3 suspension of an operator's license under this section shall be
4 pursuant to section 60-4,105. A license holder whose operator's
5 license has been suspended under this section may apply for an
6 employment driving permit as provided by sections 60-4,129 and
7 60-4,130, except that the license holder is not required to fulfill
8 the driver improvement or driver education and training course
9 requirements of subsection (2) of section 60-4,130.

10 (5) Except as provided in subsection (6) of this section
11 as it pertains to a license holder who is a member of the
12 Nebraska State Bar Association, if the ~~director~~, Department of
13 Health and Human Services, county attorney, authorized attorney,
14 or court of competent jurisdiction certifies the license holder to
15 a relevant licensing authority, the relevant licensing authority,
16 notwithstanding any other provision of law, shall suspend the
17 license holder's professional, occupational, or recreational
18 license and the license holder's right to renew the professional,
19 occupational, or recreational license ten working days after
20 the date of certification. The relevant licensing authority
21 shall without undue delay notify the license holder by certified
22 mail that the license holder's professional, occupational, or
23 recreational license will be suspended and the date the suspension
24 becomes effective.

25 (6) If the ~~director~~, department, county attorney,
26 authorized attorney, or court of competent jurisdiction certifies
27 a license holder who is a member of the Nebraska State Bar

1 Association to the Counsel for Discipline of the Nebraska Supreme
2 Court, the Nebraska Supreme Court may suspend the license holder's
3 license to practice law. It is the intent of the Legislature to
4 encourage all license holders to comply with their child support
5 obligations. Therefor, the Legislature hereby requests that the
6 Nebraska Supreme Court adopt amendments to the rules regulating
7 attorneys, if necessary, which provide for the discipline of an
8 attorney who is delinquent in the payment of or fails to pay his
9 or her child support obligation.

10 (7) The Department of Health and Human Services, or court
11 of competent jurisdiction when appropriate, shall send by certified
12 mail to the license holder at the license holder's last-known
13 address a copy of any certification filed with the Department
14 of Motor Vehicles or a relevant licensing authority and a notice
15 which states that the license holder's operator's license will
16 be suspended ten working days after the date of certification
17 and that the suspension of a professional, occupational, or
18 recreational license pursuant to subsection (5) of this section
19 becomes effective ten working days after the date of certification.

20 Sec. 137. Section 43-3319, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-3319 If the license holder files a motion or
23 application to modify a support order, the ~~Department of Health~~
24 ~~and Human Services,~~ department, county attorney, or authorized
25 attorney, upon notification by the license holder, shall stay the
26 action to certify the license holder under section 43-3318 until
27 disposition of the motion or application by the court or agency of

1 competent jurisdiction. If the license holder requests review of
2 the support order under section 43-512.12, the ~~Department of Health~~
3 ~~and Human Services~~ department shall stay the action to certify
4 the license holder pending final disposition of the review and
5 modification process.

6 Sec. 138. Section 43-3320, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 43-3320 (1) When a license holder comes into compliance
9 with the support order as provided in section 43-3314, the
10 ~~Department of Health and Human Services,~~ department, county
11 attorney, or authorized attorney shall provide the license holder
12 with written confirmation that the license holder is in compliance.

13 (2) When a license holder comes into compliance with
14 subpoenas and warrants relating to paternity or child support
15 proceedings, the court of competent jurisdiction shall provide the
16 license holder with written confirmation that the license holder is
17 in compliance.

18 Sec. 139. Section 43-3323, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-3323 The ~~Department of Health and Human Services~~
21 department shall adopt and promulgate rules and regulations to
22 carry out the License Suspension Act.

23 Sec. 140. Section 43-3325, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 43-3325 Nothing in the License Suspension Act shall
26 prevent the ~~Department of Health and Human Services,~~ department,
27 the county attorney, the authorized attorney, or the court of

1 competent jurisdiction from taking other enforcement actions.

2 Sec. 141. Section 43-3326, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-3326 The ~~director~~ department shall issue a report
5 to the Legislature on or before January 31 of each year which
6 discloses the number of professional, occupational, or recreational
7 licenses which were suspended and the number which were erroneously
8 suspended and restored as a result of the License Suspension Act
9 for the prior year. The Director of Motor Vehicles shall issue
10 a report to the Legislature on or before January 31 of each
11 year which discloses the number of operators' licenses which were
12 suspended and the number which were erroneously suspended and
13 restored as a result of the License Suspension Act for the prior
14 year.

15 Sec. 142. Section 43-3327, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-3327 (1) For purposes of this section:

18 (a) Authorized attorney has the same meaning as in
19 section 43-1704;

20 (b) ~~Director means the Director~~ Department means the
21 Department of Health and Human Services; or his or her designee;

22 (c) Genetic testing means genetic testing ordered
23 pursuant to section 43-1414; and

24 (d) Support order has the same meaning as in section
25 43-1717.

26 (2) Notwithstanding any other provision of law regarding
27 the confidentiality of records, the ~~director,~~ department, a county

1 attorney, or an authorized attorney may, without obtaining a court
2 or administrative order:

3 (a) Compel by subpoena (i) information relevant to
4 establishing, modifying, or enforcing a support order and (ii)
5 genetic testing of an individual relevant to establishing,
6 modifying, or enforcing a support order. Such information includes,
7 but is not limited to, relevant financial records and other
8 relevant records including the name, address, and listing of
9 financial assets or liabilities from public or private entities.
10 If a person fails or refuses to obey the subpoena, the ~~director,~~
11 department, a county attorney, or an authorized attorney may apply
12 to a judge of the court of competent jurisdiction for an order
13 directing such person to comply with the subpoena. Failure to obey
14 such court order may be punished by the court as contempt of court;
15 and

16 (b) Obtain access to information contained in the
17 records, including automated data bases, of any state or local
18 agency which is relevant to establishing, modifying, or enforcing a
19 support order or to ordering genetic testing. Such records include,
20 but are not limited to, vital records, state and local tax and
21 revenue records, titles to real and personal property, employment
22 security records, records of correctional institutions, and records
23 concerning the ownership and control of business entities.

24 (3) The ~~director~~ department shall subpoena or access
25 information as provided in subsection (2) of this section at the
26 request of a state agency of another state which administers Title
27 IV-D of the federal Social Security Act for such information. The

1 ~~Department of Health and Human Services~~ department may charge a fee
2 for this service which does not exceed the cost of providing the
3 service.

4 (4) All information acquired pursuant to this section is
5 confidential and cannot be disclosed or released except to other
6 agencies which have a legitimate and official interest in the
7 information for carrying out the purposes of this section. A person
8 who receives such information, subject to the provisions of this
9 subsection on confidentiality and restrictions on disclosure or
10 release, is immune from any civil or criminal liability. A person
11 who cooperates in good faith by providing information or records
12 under this section is immune from any civil or criminal liability.
13 Any person acquiring information pursuant to this section who
14 discloses or releases such information in violation of this
15 subsection is guilty of a Class III misdemeanor. The disclosure or
16 release of such information regarding an individual is a separate
17 offense from information disclosed or released regarding any other
18 individual.

19 Sec. 143. Section 43-3329, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 43-3329 For purposes of sections 43-3328 to 43-3339, the
22 following definitions apply:

23 (1) Account means a demand deposit account, checking or
24 negotiable withdrawal order account, savings account, time deposit
25 account, or money-market mutual fund account;

26 (2) Authorized attorney has the same meaning as found in
27 section 43-1704;

1 (3) Child support has the same meaning as found in
2 section 43-1705;

3 (4) Department means the Department of Health and Human
4 Services and if the department designates, includes a county
5 attorney or authorized attorney;

6 ~~(5) Director means the Director of Health and Human~~
7 ~~Services or his or her designee and, if the director designates,~~
8 ~~includes a county attorney or authorized attorney;~~

9 ~~(6)~~ (5) Financial institution means every federal or
10 state commercial or savings bank, including savings and loan
11 associations and cooperative banks, federal or state chartered
12 credit unions, benefit associations, insurance companies, safe
13 deposit companies, any money-market mutual fund as defined in
14 section 851(a) of the Internal Revenue Code that seeks to maintain
15 a constant net asset value of one dollar in accordance with 17
16 C.F.R. 270.2a-7, any broker, brokerage firm, trust company, or unit
17 investment trust, or any other similar entity doing business or
18 authorized to do business in the State of Nebraska;

19 ~~(7)~~ (6) Match means a comparison by automated or other
20 means by name and social security number of a list of obligors
21 provided to a financial institution by the ~~Department of Health and~~
22 ~~Human Services~~ department and a list of depositors of any financial
23 institution;

24 ~~(8)~~ (7) Medical support has the same meaning as found in
25 section 43-512;

26 ~~(9)~~ (8) Obligor means a person who owes a duty of support
27 pursuant to a support order;

1 ~~(10)~~ (9) Payor includes a person, partnership, limited
2 partnership, limited liability partnership, limited liability
3 company, corporation, or other entity doing business or authorized
4 to do business in the State of Nebraska, including a financial
5 institution, or a department or an agency of state, county, or city
6 government;

7 ~~(11)~~ (10) Spousal support has the same meaning as found
8 in section 43-1715;

9 ~~(12)~~ (11) Support in the definitions of child support,
10 medical support, and spousal support means providing necessary
11 shelter, food, clothing, care, medical support, medical attention,
12 education expenses, or funeral expenses or any other reasonable and
13 necessary expense; and

14 ~~(13)~~ (12) Support order has the same meaning as found in
15 section 43-1717.

16 Sec. 144. Section 43-3333, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 43-3333 (1) In a case which is receiving services under
19 Title IV-D of the federal Social Security Act, as amended, when
20 the ~~director~~ department has made reasonable efforts to verify and
21 has reason to believe payment on a support order is in arrears
22 in an amount equal to the support due and payable for more than
23 a three-month period of time or upon the request of the state
24 agency of another state which administers Title IV-D of the federal
25 Social Security Act, and therefor determines to seize an obligor's
26 property, the ~~director~~ department shall send written notice to
27 the obligor by first-class mail to the last-known address of the

1 obligor or to the last-known address of the obligor available
2 to the court pursuant to section 42-364.13. For purposes of this
3 section, reasonable efforts to verify means reviewing the case file
4 and having written or oral communication with the clerk of the
5 district court.

6 (2) The notice of arrearage shall:

7 (a) Specify the court or agency which issued the support
8 order;

9 (b) Specify the arrearage under the support order which
10 the obligor owes as of the date of the notice or other date
11 certain;

12 (c) Specify that any enforcement action will incorporate
13 any arrearage which may accrue in the future;

14 (d) State clearly, "Your property may be seized without
15 further notice if you do not respond or clear up the arrearage";
16 and

17 (e) Specify that within twenty days after the notice is
18 mailed, the obligor may request, in writing, a hearing to contest
19 a mistake of fact. For purposes of this section, mistake of fact
20 means an error in the amount of the arrearage or an error in the
21 identity of the obligor.

22 (3) If the obligor files a written request for a hearing
23 based upon a mistake of fact within twenty days after the notice is
24 mailed, the department shall provide an opportunity for a hearing
25 and shall stay enforcement action under sections 43-3333 to 43-3337
26 until the administrative appeal process is completed.

27 Sec. 145. Section 43-3334, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-3334 (1) The ~~director~~ department may send a payor
3 an order to withhold and deliver specifically identified property
4 of any kind due, owing, or belonging to an obligor if (a) the
5 ~~director~~ department has reason to and does believe that there is
6 in the possession of the payor property which is due, owing, or
7 belonging to an obligor, (b) payment on a support order is in
8 arrears, (c) the ~~director~~ department sent a notice of arrearage to
9 the obligor pursuant to section 43-3333 at least thirty days prior
10 to sending the notice to withhold and deliver, and (d) no hearing
11 was requested or after a hearing the department determined that an
12 arrearage did exist or that there was no mistake of fact.

13 (2) The order to withhold and deliver shall state that
14 notice has been mailed to the obligor in accordance with the
15 requirements of subdivision (1)(c) of this section and that the
16 obligor has not requested a hearing or, after a hearing, the
17 department has determined that an arrearage exists or that there
18 was no mistake of fact, the amount in arrears, the social security
19 number of the obligor, the court or agency to which the property
20 is to be delivered, instructions for transmitting the property, and
21 information regarding the requirements found in subsection (3) of
22 this section. The order shall include written questions regarding
23 the property of every description, including whether or not any
24 other person has an ownership interest in the property, and the
25 credits of the obligor which are in the possession or under the
26 control of the payor at the time the order is received.

27 (3) Upon receipt of an order to withhold and deliver, a

1 payor shall:

2 (a) Hold property that is subject to the order and that
3 is in the possession or under the control of the payor at the time
4 the order to withhold and deliver was received, to the extent of
5 the amount of the arrearage stated in the order until the payor
6 receives further notice from the ~~director~~; department;

7 (b) Answer all of the questions asked of the payor in
8 the order, supply the name and address of any person that has an
9 ownership interest in the property sought to be reached, and return
10 such information to the ~~director~~ department within five business
11 days after receiving the order; and

12 (c) Upon further notice from the ~~director~~; department,
13 deliver any property which may be subject to the order to the
14 court or agency designated in the order or release such property or
15 portion thereof.

16 (4) An order to withhold and deliver shall have the same
17 priority as a garnishment for the support of a person pursuant to
18 subsection (4) of section 25-1056.

19 (5) If the payor is a financial institution, such
20 financial institution may deduct and retain a processing fee
21 from any amounts turned over to the department under this section.
22 The processing fee shall not exceed ten dollars for each account
23 turned over to the department.

24 Sec. 146. Section 43-3335, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 43-3335 (1) Within five days after the issuance of the
27 order to withhold and deliver, the ~~director~~ department shall send

1 written notice to the obligor by first-class mail. The notice shall
2 be dated and shall specify the payor to which an order to withhold
3 and deliver was sent, the amount due, the steps to be followed to
4 release the property, the time period in which to respond to such
5 notice, and the court or agency of competent jurisdiction which
6 issued the support order.

7 (2) The obligor may request a hearing to contest a
8 mistake of fact by sending a written request to the ~~director~~
9 department within seven days after the date of the notice. The
10 department shall provide an opportunity for a hearing within
11 ten days after receipt of the written request and shall stay
12 enforcement actions under sections 43-3333 to 43-3337 until the
13 administrative appeal process is completed.

14 Sec. 147. Section 43-3336, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 43-3336 (1) If, after receiving the information from
17 the payor in subdivision (3)(b) of section 43-3334, the ~~director~~
18 department has knowledge that another person has an ownership
19 interest or may claim an ownership interest in any property sought
20 to be reached which is in the possession or under the control of
21 the payor as the property of the obligor, the ~~director~~ department
22 shall send written notice to such person or persons by certified
23 mail, return receipt requested. The notice shall be dated and shall
24 specify why the order to withhold and deliver was issued, the
25 payor to which the order to withhold and deliver was sent, and
26 that the person has a right to request a hearing by the department
27 within fifteen days after the date of the notice to establish

1 that the property or any part thereof is not the property of the
2 obligor. The department shall provide an opportunity for hearing
3 to a person making such request and shall stay enforcement actions
4 under sections 43-3333 to 43-3337 until the administrative appeal
5 process is completed.

6 (2) Any person other than the obligor claiming an
7 ownership interest in any property sought to be reached which
8 is in the possession or under the control of the payor as the
9 property of the obligor has a right to timely request a hearing by
10 the department to establish that the property or any part thereof
11 is not the property of the obligor. The department shall provide an
12 opportunity for hearing to a person making such request and shall
13 stay enforcement actions under sections 43-3333 to 43-3337 until
14 the administrative appeal process is completed. If the property or
15 any part of the property which is in the possession or under the
16 control of the payor is not the property of the obligor, the payor
17 is discharged as to that property which is not the obligor's.

18 Sec. 148. Section 43-3338, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 43-3338 Any person aggrieved by a determination of the
21 department under sections 43-3328 to 43-3339, upon exhaustion of
22 the procedures for administrative review provided in such sections,
23 or the ~~director~~ department may seek judicial review in the court in
24 which the support order was issued or registered.

25 Sec. 149. Section 43-3342.04, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 43-3342.04 (1) The Title IV-D Division shall establish a

1 Customer Service Unit. In hiring the initial staff for the unit, a
2 hiring preference shall be given to employees of the clerks of the
3 district court. The duties of the Customer Service Unit include,
4 but are not limited to:

5 (a) Providing account information as well as addressing
6 inquiries made by customers of the State Disbursement Unit; and

7 (b) Administering two statewide toll-free telephone
8 systems, one for use by employers and one for use by all other
9 customers, to provide responses to inquiries regarding income
10 withholding, the collection and disbursement of support order
11 payments made to the State Disbursement Unit, and other child
12 support enforcement issues, including establishing a call center
13 with sufficient telephone lines, a voice response unit, and
14 adequate personnel available during normal business hours to ensure
15 that responses to inquiries are made by the division's personnel
16 or the division's designee.

17 (2) The physical location of the Customer Service Unit
18 shall be in Nebraska and shall result in the hiring of a number of
19 new employees or contractor's staff equal to at least one-fourth
20 of one percent of the labor force in the county or counties in
21 which the Customer Service Unit is located. Customer service staff
22 responsible for providing account information related to the State
23 Disbursement Unit may be located at the same location as the State
24 Disbursement Unit.

25 (3) ~~The Director of Health and Human Services~~ department
26 shall issue a report to the Governor and to the Legislature on or
27 before January 31 of each year which discloses information relating

1 to the operation of the State Disbursement Unit for the preceding
2 calendar year including, but not limited to:

3 (a) The number of transactions processed by the State
4 Disbursement Unit;

5 (b) The dollar amount collected by the State Disbursement
6 Unit;

7 (c) The dollar amount disbursed by the State Disbursement
8 Unit;

9 (d) The percentage of identifiable collections disbursed
10 within two business days;

11 (e) The percentage of identifiable collections that are
12 matched to the correct case;

13 (f) The number and dollar amount of insufficient funds
14 checks received by the State Disbursement Unit;

15 (g) The number and dollar amount of insufficient
16 funds checks received by the State Disbursement Unit for which
17 restitution is subsequently made to the State Disbursement Unit;

18 (h) The number of incoming telephone calls processed
19 through the Customer Service Unit;

20 (i) The average length of incoming calls from employers;

21 (j) The average length of incoming calls from all other
22 customers;

23 (k) The percentage of incoming calls resulting in
24 abandonment by the customer;

25 (l) The percentage of incoming calls resulting in a
26 customer receiving a busy signal;

27 (m) The average holding time for all incoming calls; and

1 (n) The percentage of calls handled by employees of the
2 Customer Service Unit that are resolved within twenty-four hours.

3 Sec. 150. Section 43-3401, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 43-3401 The Early Childhood Interagency Coordinating
6 Council is created. The council shall advise and assist the
7 collaborating agencies in carrying out the provisions of the Early
8 Intervention Act, the Quality Child Care Act, sections 79-1101 to
9 79-1104, and other early childhood care and education initiatives
10 under state supervision. Membership and activities of the council
11 shall comply with all applicable provisions of federal law. Members
12 of the council shall be appointed by the Governor and shall
13 include, but not be limited to:

14 (1) Parents of children who require early intervention
15 services, early childhood special education, and other early
16 childhood care and education services; and

17 (2) Representatives of school districts, social
18 services, health and medical services, family child care and
19 center-based early childhood care and education programs, agencies
20 providing training to staff of child care programs, resource
21 and referral agencies, mental health services, developmental
22 disabilities services, educational service units, Head Start,
23 higher education, physicians, the Legislature, business persons,
24 and the collaborating agencies.

25 Terms of the members shall be for three years, and
26 a member shall not serve more than two consecutive three-year
27 terms. Members shall be reimbursed for their actual and necessary

1 expenses, including child care expenses, with funds provided for
2 such purposes through the Early Intervention Act, the Quality Child
3 Care Act, and sections 79-1101 to 79-1104.

4 Members of the Nebraska Interagency Coordinating Council
5 serving on July 13, 2000, shall constitute the Early Childhood
6 Interagency Coordinating Council and shall serve for the remainder
7 of their terms. The Governor shall make additional appointments
8 as required by this section and to fill vacancies as needed.
9 The Governor shall set the initial terms of additional appointees
10 to result in staggered terms for members of the council. The
11 Department of Health and Human Services ~~Finance and Support~~, the
12 ~~Department of Health and Human Services Regulation and Licensure~~,
13 and the State Department of Education shall provide and coordinate
14 staff assistance to the council.

15 Sec. 151. Section 43-3402, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 43-3402 With respect to the Early Intervention Act, the
18 Quality Child Care Act, and sections 79-1101 to 79-1104, the
19 Early Childhood Interagency Coordinating Council shall serve in an
20 advisory capacity to state agencies responsible for early childhood
21 care and education, including care for school-age children, in
22 order to:

23 (1) Promote the policies set forth in the Early
24 Intervention Act, the Quality Child Care Act, and sections 79-1101
25 to 79-1104;

26 (2) Facilitate collaboration with the federally
27 administered Head Start program;

1 (3) Make recommendations to the Department of Health and
2 Human Services, ~~the Department of Health and Human Services Finance~~
3 ~~and Support~~, ~~the Department of Health and Human Services Regulation~~
4 ~~and Licensure~~, the State Department of Education, and other state
5 agencies responsible for the regulation or provision of early
6 childhood care and education programs on the needs, priorities, and
7 policies relating to such programs throughout the state;

8 (4) Make recommendations to the lead agency or agencies
9 which prepare and submit applications for federal funding;

10 (5) Review new or proposed revisions to rules and
11 regulations governing the registration or licensing of early
12 childhood care and education programs;

13 (6) Study and recommend additional resources for early
14 childhood care and education programs; and

15 (7) Report biennially to the Governor and Legislature
16 on the status of early intervention and early childhood care and
17 education in the state. Such report shall include (a) the number
18 of license applications received under section 71-1911, (b) the
19 number of such licenses issued, (c) the number of such license
20 applications denied, (d) the number of complaints investigated
21 regarding such licensees, (e) the number of such licenses revoked,
22 (f) the number and dollar amount of civil penalties levied pursuant
23 to section 71-1920, and (g) information which may assist the
24 Legislature in determining the extent of cooperation provided
25 to the Department of Health and Human Services Regulation and
26 Licensure by other state and local agencies pursuant to section
27 71-1914.

1 Sec. 152. Section 43-3810, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 43-3810 The ~~Director of Health and Human Services~~ chief
4 executive officer of the department or his or her designee shall
5 meet as necessary with consular officials to discuss, clarify, and
6 coordinate activities, ideas and concerns of a high-profile nature,
7 timely media attention, and joint prevention efforts regarding the
8 protection and well-being of foreign national minors and minors
9 holding dual citizenship and families.

10 Sec. 153. Section 44-771, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 44-771 Hospital shall mean an institution licensed as a
13 hospital by the Department of Health and Human Services ~~Regulation~~
14 ~~and Licensure~~ and defined in section 71-419.

15 Sec. 154. Section 44-772, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 44-772 Substance abuse treatment center shall mean an
18 institution licensed as a substance abuse treatment center by the
19 Department of Health and Human Services ~~Regulation and Licensure~~
20 and defined in section 71-430, which provides a program for the
21 inpatient or outpatient treatment of alcoholism pursuant to a
22 written treatment plan approved and monitored by a physician and
23 which is affiliated with a hospital under a contractual agreement
24 with an established system for patient referral.

25 Sec. 155. Section 44-773, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 44-773 Outpatient program shall refer to a program which

1 is licensed or certified by the Department of Health and Human
2 Services ~~Regulation and Licensure~~ or the Division of Behavioral
3 Health ~~Services~~ of the Department of Health and Human Services to
4 provide specified services to persons suffering from the disease of
5 alcoholism.

6 Sec. 156. Section 44-774, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 44-774 Certified shall mean approved by the Division of
9 Behavioral Health ~~Services~~ of the Department of Health and Human
10 Services to render specific types or levels of care to the person
11 suffering from the disease of alcoholism.

12 Sec. 157. Section 44-782, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 44-782 No insurance company, health maintenance
15 organization, or other health insurance provider shall deny payment
16 for treatment of mental or nervous disorders under a policy,
17 contract, certificate, or other evidence of coverage issued or
18 delivered in Nebraska on the basis that the hospital or state
19 institution licensed as a hospital by the Department of Health
20 and Human Services ~~Regulation and Licensure~~ and defined in section
21 71-419 providing such treatment is publicly funded and charges are
22 reduced or no fee is charged depending on the patient's ability
23 to pay.

24 Sec. 158. Section 44-793, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 44-793 (1) On or after January 1, 2000, notwithstanding
27 section 44-3,131, any health insurance plan delivered, issued, or

1 renewed in this state (a) if coverage is provided for treatment
2 of mental health conditions other than alcohol or substance abuse,
3 (i) shall not establish any rate, term, or condition that places
4 a greater financial burden on an insured for access to treatment
5 for a serious mental illness than for access to treatment for
6 a physical health condition and (ii) if an out-of-pocket limit
7 is established for physical health conditions, shall apply such
8 out-of-pocket limit as a single comprehensive out-of-pocket limit
9 for both physical health conditions and mental health conditions,
10 or (b) if no coverage is to be provided for treatment of mental
11 health conditions, shall provide clear and prominent notice of such
12 noncoverage in the plan.

13 (2) If a health insurance plan provides coverage for
14 serious mental illness, the health insurance plan shall cover
15 health care rendered for treatment of serious mental illness (a)
16 by a mental health professional, (b) by a person authorized by
17 the rules and regulations of the Department of Health and Human
18 ~~Services Regulation and Licensure~~ to provide treatment for mental
19 illness, (c) in a mental health center as defined in section
20 71-423, or (d) in any other health care facility licensed under
21 the Health Care Facility Licensure Act that provides a program for
22 the treatment of a mental health condition pursuant to a written
23 plan. The issuer of a health insurance plan may require a health
24 care provider under this subsection to enter into a contract as a
25 condition of providing benefits.

26 (3) The Director of Insurance may disapprove any plan
27 that the director determines to be inconsistent with the purposes

1 of this section.

2 Sec. 159. Section 44-1102, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 44-1102 For purposes of the Viatical Settlements Act:

5 (1) Advertising means any written, electronic, or printed
6 communication or any communication by means of recorded telephone
7 messages or transmitted on radio, television, the Internet,
8 or similar communications media, including film strips, motion
9 pictures, and videos, published, disseminated, circulated, or
10 placed before the public, directly or indirectly, for the purpose
11 of creating an interest in or inducing a person to sell a life
12 insurance policy pursuant to a viatical settlement contract;

13 (2) Business of viatical settlements means an
14 activity involved in, but not limited to, the offering,
15 solicitation, negotiation, procurement, effectuation, purchasing,
16 investing, financing, monitoring, tracking, underwriting, selling,
17 transferring, assigning, pledging, or hypothecating of viatical
18 settlement contracts or purchase agreements;

19 (3) Chronically ill means (a) being unable to perform at
20 least two activities of daily living, such as eating, toileting,
21 transferring, bathing, dressing, or continence; (b) requiring
22 substantial supervision to protect the individual from threats to
23 health and safety due to severe cognitive impairment; or (c) having
24 a level of disability similar to that described in subdivision
25 (3) (a) of this section as determined by the ~~Director~~ Department of
26 Health and Human Services;

27 (4) Department means the Department of Insurance;

1 (5) Director means the Director of Insurance;

2 (6) Financing entity means an underwriter, a placement
3 agent, a lender, a purchaser of securities, a purchaser of a
4 policy or certificate from a viatical settlement provider, a
5 credit enhancer, or any entity that has a direct ownership in a
6 policy or certificate that is the subject of a viatical settlement
7 contract (a) whose principal activity related to the transaction is
8 providing funds to effect the viatical settlement or purchase of
9 one or more viaticated policies and (b) who has an agreement in
10 writing with one or more licensed viatical settlement providers to
11 finance the acquisition of viatical settlement contracts. Financing
12 entity does not include a nonaccredited investor or viatical
13 settlement purchaser;

14 (7) Fraudulent viatical settlement act means an act or
15 omission committed by any person who, knowingly and with intent to
16 defraud and for the purpose of depriving another of property or for
17 pecuniary gain, commits, or permits his or her employees or agents
18 to commit, any of the following acts:

19 (a) Presenting, causing to be presented, or preparing
20 with the knowledge or belief that it will be presented to or by a
21 viatical settlement provider, viatical settlement broker, viatical
22 settlement purchaser, financing entity, insurer, insurance broker,
23 insurance agent, or any other person, false material information,
24 or concealing material information, as part of, in support of, or
25 concerning a fact material to one or more of the following:

26 (i) An application for the issuance of a viatical
27 settlement contract or insurance policy;

1 (ii) The underwriting of a viatical settlement contract
2 or insurance policy;

3 (iii) A claim for payment or benefit pursuant to a
4 viatical settlement contract or insurance policy;

5 (iv) Premiums paid on an insurance policy;

6 (v) Payments and changes in ownership or beneficiary made
7 in accordance with the terms of a viatical settlement contract or
8 insurance policy;

9 (vi) The reinstatement or conversion of an insurance
10 policy;

11 (vii) The solicitation, offer, effectuation, or sale of a
12 viatical settlement contract or insurance policy;

13 (viii) The issuance of written evidence of a viatical
14 settlement contract or insurance;

15 (ix) A financing transaction; or

16 (x) Employing any device, scheme, or artifice to defraud
17 related to viaticated policies;

18 (b) In the furtherance of a fraud or to prevent the
19 detection of a fraud:

20 (i) Removing, concealing, altering, destroying, or
21 sequestering from the director the assets or records of a licensee
22 or other person engaged in the business of viatical settlements;

23 (ii) Misrepresenting or concealing the financial
24 condition of a licensee, financing entity, insurer, or other
25 person;

26 (iii) Transacting the business of viatical settlements in
27 violation of laws requiring a license, certificate of authority,

1 or other legal authority for the transaction of the business of
2 viatical settlements; or

3 (iv) Filing with the director or the chief insurance
4 regulatory official of another jurisdiction a document containing
5 false information or otherwise concealing information about a
6 material fact from the director;

7 (c) Presenting, causing to be presented, or preparing
8 with the knowledge or reason to believe that it will be presented,
9 to or by a viatical settlement provider, viatical settlement
10 broker, insurer, insurance agent, financing entity, viatical
11 settlement purchaser, or any other person, in connection with
12 a viatical settlement transaction or insurance transaction, an
13 insurance policy, knowing the policy was fraudulently obtained by
14 the insured, owner, or any agent thereof;

15 (d) Embezzlement, theft, misappropriation, or conversion
16 of money, funds, premiums, credits, or other property of a
17 viatical settlement provider, insurer, insured, viator, insurance
18 policyowner, or any other person engaged in the business of
19 viatical settlements or insurance; or

20 (e) Attempting to commit, assisting, aiding, or abetting
21 in the commission of, or conspiring to commit the acts or omissions
22 specified in this subdivision;

23 (8) Person means a natural person or a legal entity,
24 including an individual, a partnership, a limited liability
25 company, an association, a trust, or a corporation;

26 (9) Policy means an individual or group policy, group
27 certificate, contract, or arrangement of life insurance affecting

1 the rights of a resident of this state or bearing a reasonable
2 relation to this state, regardless of whether delivered or issued
3 for delivery in this state;

4 (10) Related provider trust means a titling trust or
5 other trust established by a licensed viatical settlement provider
6 or a financing entity for the sole purpose of holding the ownership
7 or beneficial interest in purchased policies in connection with
8 a financing transaction. The trust shall have a written agreement
9 with the licensed viatical settlement provider under which the
10 licensed viatical settlement provider is responsible for ensuring
11 compliance with all statutory and regulatory requirements and under
12 which the trust agrees to make all records and files related to
13 viatical settlement transactions available to the director as if
14 those records and files were maintained directly by the licensed
15 viatical settlement provider;

16 (11) Special purpose entity means a corporation,
17 partnership, trust, limited liability company, or other similar
18 entity formed solely to provide, either directly or indirectly,
19 access to institutional capital markets for a financing entity or
20 licensed viatical settlement provider;

21 (12) Terminally ill means having an illness or sickness
22 that can reasonably be expected to result in death in twenty-four
23 months or less;

24 (13) Viatical settlement broker means a person that
25 on behalf of a viator and for a fee, commission, or other
26 valuable consideration offers or attempts to negotiate viatical
27 settlement contracts between a viator and one or more viatical

1 settlement providers. Notwithstanding the manner in which the
2 viatical settlement broker is compensated, a viatical settlement
3 broker is deemed to represent only the viator and owes a fiduciary
4 duty to the viator to act according to the viator's instructions
5 and in the best interest of the viator. Viatical settlement
6 broker includes a licensed life insurance producer that meets
7 the requirements of section 44-1103. Viatical settlement broker
8 does not include an attorney, a certified public accountant,
9 or a financial planner accredited by a nationally recognized
10 accreditation agency who is retained to represent the viator and
11 whose compensation is not paid directly or indirectly by the
12 viatical settlement provider or purchaser;

13 (14) Viatical settlement contract means a written
14 agreement establishing the terms under which compensation or
15 anything of value will be paid, which compensation or value is
16 less than the expected death benefit of the insurance policy or
17 certificate, in return for the viator's assignment, transfer, sale,
18 devise, or bequest of the death benefit or ownership or any portion
19 of the insurance policy or certificate of insurance. A viatical
20 settlement contract also includes a contract for a loan or other
21 financing transaction secured primarily by an individual or group
22 life insurance policy, other than a loan by a life insurance
23 company pursuant to the terms of the life insurance contract, or a
24 loan secured by the cash value of a policy. A viatical settlement
25 contract includes an agreement to transfer ownership or change the
26 beneficiary designation at a later date regardless of the date that
27 compensation is paid to the viator;

1 (15) Viatical settlement provider means a person, other
2 than a viator, that enters into or effectuates a viatical
3 settlement contract. Viatical settlement provider does not include:

4 (a) A bank, savings bank, savings and loan association,
5 credit union, or other licensed lending institution that takes an
6 assignment of a life insurance policy as collateral for a loan;

7 (b) The issuer of a life insurance policy providing
8 accelerated benefits under and pursuant to the contract;

9 (c) An authorized or eligible insurer that provides
10 stop-loss coverage to a viatical settlement provider, purchaser,
11 financing entity, special purpose entity, or related provider
12 trust;

13 (d) A natural person who enters into or effectuates no
14 more than one agreement in a calendar year for the transfer of
15 life insurance policies for any value less than the expected death
16 benefit;

17 (e) A financing entity;

18 (f) A special purpose entity;

19 (g) A related provider trust;

20 (h) A viatical settlement purchaser; or

21 (i) An accredited investor or qualified institutional
22 buyer as defined respectively in Regulation D, Rule 501, or Rule
23 144A of the federal Securities Act of 1933, as the act existed
24 on September 1, 2001, who purchases a viaticated policy from a
25 viatical settlement provider;

26 (16) Viatical settlement purchaser means a person who
27 gives a sum of money as consideration for a life insurance policy

1 or an interest in the death benefits of a life insurance policy,
2 or a person who owns or acquires or is entitled to a beneficial
3 interest in a trust that owns a viatical settlement contract or is
4 the beneficiary of a life insurance policy that has been or will
5 be the subject of a viatical settlement contract, for the purpose
6 of deriving an economic benefit. Viatical settlement purchaser does
7 not include:

8 (a) A licensee under the Viatical Settlements Act;

9 (b) An accredited investor or qualified institutional
10 buyer as defined respectively in Regulation D, Rule 501, or Rule
11 144A of the federal Securities Act of 1933, as the act existed on
12 September 1, 2001;

13 (c) A financing entity;

14 (d) A special purpose entity; or

15 (e) A related provider trust;

16 (17) Viaticated policy means a life insurance policy
17 or certificate that has been acquired by a viatical settlement
18 provider pursuant to a viatical settlement contract; and

19 (18) Viator means the owner of a life insurance policy
20 or a certificate holder under a group policy who enters or seeks
21 to enter into a viatical settlement contract. For purposes of the
22 Viatical Settlements Act, a viator is not limited to an owner of a
23 life insurance policy or a certificate holder under a group policy
24 insuring the life of an individual with a terminal or chronic
25 illness or condition except as specifically addressed. Viator does
26 not include:

27 (a) A licensee under the act;

1 (b) An accredited investor or qualified institutional
2 buyer as defined respectively in Regulation D, Rule 501, or Rule
3 144A of the federal Securities Act of 1933, as the act existed on
4 September 1, 2001;

5 (c) A financing entity;

6 (d) A special purpose entity; or

7 (e) A related provider trust.

8 Sec. 160. Section 44-2835, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 44-2835 (1) Each malpractice claim settled or adjudicated
11 to final judgment against a health care provider under the Nebraska
12 Hospital-Medical Liability Act shall be reported to the director
13 by the plaintiff's attorney and by the health care provider or his
14 or her insurer or risk manager within sixty days following final
15 disposition of the claim. Such report to the director shall state
16 the following:

17 (a) The nature of the claim;

18 (b) The alleged injury and the damages asserted;

19 (c) Attorney's fees and expenses incurred in connection
20 with the claim or defense; and

21 (d) The amount of any settlement or judgment.

22 (2) The director shall forward the name of every health
23 care provider, except a hospital, against whom a settlement has
24 been made or judgment has been rendered under the act to the
25 Department of Health and Human Services Regulation and Licensure
26 for such action, if any, as it deems to be appropriate under the
27 circumstances.

1 Sec. 161. Section 44-2847, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-2847 (1) Medical review panels shall be concerned
4 only with the determination of the questions set forth in section
5 44-2843. Such panels shall not consider or report on disputed
6 questions of law.

7 (2) To provide for uniformity of procedure, the ~~Director~~
8 ~~of Regulation and Licensure~~ Department of Health and Human Services
9 may appoint a doctor of medicine from the members of the Board of
10 Medicine and Surgery who may sit with each panel as an observer and
11 as an adviser on procedure but without a vote.

12 Sec. 162. Section 44-2901, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 44-2901 Any three or more hospitals as defined in section
15 71-419, which are located in this state and licensed by the
16 Department of Health and Human Services, ~~Regulation and Licensure,~~
17 may incorporate a mutual insurance association to insure member
18 hospitals and their officers, directors, employees, and volunteer
19 workers against liability arising from rendering, or failing
20 to render, professional services in the treatment or care of
21 patients by hospitals and their agents and employees or by member
22 physicians.

23 Sec. 163. Section 44-2904, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 44-2904 Any hospital, whether within or without the
26 state, shall be qualified to become a member of a hospital
27 association incorporated under sections 44-2901 to 44-2918 if it

1 is licensed either by the Department of Health and Human Services
2 ~~Regulation and Licensure~~ or by the corresponding authority in the
3 state in which the hospital is located, except that no hospital
4 outside of this state may become a member of such an association
5 until one year after March 31, 1976, nor may any risks outside
6 this state be insured under the provisions of sections 44-2901
7 to 44-2918 until one year after the issuance of a certificate
8 of authority to transact insurance business by the Department of
9 Insurance. All such risks shall be subject to the prior approval of
10 the Director of Insurance.

11 In determining whether or not to grant approval for the
12 insuring of risks outside of Nebraska, the Director of Insurance
13 shall consider the following: (1) Limits of indemnity; (2) past
14 and present loss experience of the hospital to be insured; (3)
15 statutes, court decisions, and the insurance climate of the
16 jurisdiction in which the risk is located; and (4) such other
17 information as the director may deem relevant.

18 Sec. 164. Section 44-32,119, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 44-32,119 (1) Upon receipt of an application for issuance
21 of a certificate of authority, the Director of Insurance shall
22 forthwith transmit copies of such application and accompanying
23 documents to the ~~Director of Regulation and Licensure~~, Department
24 of Health and Human Services.

25 (2) The ~~Director of Regulation and Licensure~~ Department
26 of Health and Human Services shall determine whether the applicant
27 has complied with sections 44-32,126 to 44-32,128 with respect to

1 health care services to be furnished.

2 (3) Within forty-five days of receipt of the application
3 for issuance of a certificate of authority, the ~~Director of~~
4 ~~Regulation and Licensure~~ Department of Health and Human Services
5 shall certify to the Director of Insurance that the proposed health
6 maintenance organization meets the requirements of such sections
7 or notify the Director of Insurance that the health maintenance
8 organization does not meet such requirements and specify in what
9 respects it is deficient.

10 Sec. 165. Section 44-32,120, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 44-32,120 The Director of Insurance shall, within
13 forty-five days of receipt of certification or notice of
14 deficiencies pursuant to section 44-32,119, issue a certificate
15 of authority to any person filing a completed application upon
16 receiving the prescribed fees and being satisfied that:

17 (1) The persons responsible for the conduct of the
18 affairs of the applicant are competent, trustworthy, and possess
19 good reputations;

20 (2) Any deficiencies identified by the ~~Director of~~
21 ~~Regulation and Licensure~~ Department of Health and Human Services
22 have been corrected and the ~~Director of Regulation and Licensure~~
23 department has certified to the Director of Insurance that the
24 health maintenance organization's proposed plan of operation meets
25 the requirements of sections 44-32,126 to 44-32,128;

26 (3) The health maintenance organization will effectively
27 provide or arrange for the provision of basic health care services

1 on a prepaid basis, through insurance or otherwise, except to the
2 extent of reasonable requirements for copayments or deductibles;
3 and

4 (4) The health maintenance organization is in compliance
5 with sections 44-32,138 to 44-32,148.

6 A certificate of authority shall be denied only after
7 the Director of Insurance complies with the requirements of section
8 44-32,153.

9 Sec. 166. Section 44-32,127, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 44-32,127 Each health maintenance organization shall have
12 an ongoing, internal quality assurance program to monitor and
13 evaluate its health care services, including primary and specialist
14 physician services, and ancillary and preventive health care
15 services across all institutional and noninstitutional settings.
16 The quality assurance program shall include, but not be limited to,
17 the following:

18 (1) A written statement of goals and objectives which
19 emphasizes improved health status in evaluating the quality of care
20 rendered to enrollees;

21 (2) A written quality assurance plan which describes the
22 following:

23 (a) The health maintenance organization's scope and
24 purpose in quality assurance;

25 (b) The organizational structure responsible for quality
26 assurance activities;

27 (c) Contractual arrangements, when appropriate, for

1 delegation of quality assurance activities;

2 (d) Confidentiality policies and procedures;

3 (e) A system of ongoing evaluation activities;

4 (f) A system of focused evaluation activities;

5 (g) A system for credentialing providers and performing
6 peer review activities; and

7 (h) Duties and responsibilities of the designated
8 physician responsible for the quality assurance activities;

9 (3) A written statement describing the system of ongoing
10 quality assurance activities, including, but not limited to, the
11 following:

12 (a) Problem assessment, identification, selection, and
13 study;

14 (b) Corrective action, monitoring, evaluation, and
15 reassessment; and

16 (c) Interpretation and analysis of patterns of care
17 rendered to individual patients by individual providers;

18 (4) A written statement describing the system of focused
19 quality assurance activities based on representative samples of the
20 enrolled population which identifies method of topic selection,
21 study, data collection, analysis, interpretation, and report
22 format; and

23 (5) A written plan for taking appropriate corrective
24 action whenever, as determined by the quality assurance program,
25 inappropriate or substandard services have been provided or
26 services which should have been furnished have not been provided.

27 Each health maintenance organization shall record

1 proceedings of formal quality assurance program activities and
2 maintain documentation in a confidential manner. Quality assurance
3 program minutes shall be available to the ~~Director of Regulation~~
4 ~~and Licensure.~~ Department of Health and Human Services. Each
5 health maintenance organization shall also establish a mechanism
6 for periodic reporting of quality assurance program activities to
7 the governing body of the health maintenance organization, the
8 providers, and appropriate staff.

9 Sec. 167. Section 44-32,128, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 44-32,128 Each health maintenance organization shall
12 ensure the use and maintenance of an adequate patient record
13 system which facilitates documentation and retrieval of clinical
14 information for the purpose of the health maintenance organization
15 evaluating continuity and coordination of patient care and
16 assessing the quality of health and medical care provided to
17 enrollees. Enrollee clinical records shall be available to the
18 ~~Director of Regulation and Licensure~~ Department of Health and Human
19 Services or an authorized designee for examination and review to
20 ascertain compliance with section 44-32,127 or as deemed necessary
21 by the ~~Director of Regulation and Licensure.~~ department.

22 Sec. 168. Section 44-32,134, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 44-32,134 (1) Every health maintenance organization
25 shall file annually, on or before March 1, an annual financial
26 statement with the Director of Insurance, with a copy to the
27 ~~Director of Regulation and Licensure,~~ Department of Health and

1 Human Services, covering the preceding calendar year. The annual
2 financial statement shall be on forms prescribed by the Director
3 of Insurance and shall be prepared in accordance with annual
4 statement instructions and accounting practices and procedures
5 manuals as prescribed by the director which conform substantially
6 to the annual statement instructions and the Accounting Practices
7 and Procedures Manuals of the National Association of Insurance
8 Commissioners.

9 (2) Every health maintenance organization shall file
10 annually, on or before March 1, with the Director of Insurance,
11 with a copy to the ~~Director of Regulation and Licensure~~
12 department:

13 (a) A list of the providers who have executed a contract
14 that complies with section 44-32,141; and

15 (b) A description of the grievance procedures, the total
16 number of grievances handled through such procedures, a compilation
17 of the causes underlying those grievances, and a summary of the
18 final disposition of those grievances.

19 (3) Every health maintenance organization shall file
20 annually, on or before June 1, audited financial statements
21 with the Director of Insurance, with a copy to the ~~Director~~
22 of Regulation and Licensure department.

23 (4) The Director of Insurance may require such additional
24 reports as are deemed necessary and appropriate to carry out his or
25 her duties under the Health Maintenance Organization Act.

26 Sec. 169. Section 44-32,136, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 44-32,136 Each health maintenance organization shall
2 establish and maintain a grievance procedure to provide for the
3 resolution of grievances initiated by enrollees. The procedure
4 shall be approved by the Director of Insurance after consultation
5 with the ~~Director of Regulation and Licensure.~~ Department of
6 Health and Human Services. The Director of Insurance or the
7 ~~Director of Regulation and Licensure~~ department may examine the
8 grievance procedure. The health maintenance organization shall
9 maintain records regarding grievances received since the date of
10 the last examination.

11 Sec. 170. Section 44-32,152, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 44-32,152 (1) The Director of Insurance may make an
14 examination of the affairs of any health maintenance organization
15 in accordance with the Insurers Examination Act and any provider
16 with whom such health maintenance organization has contracts,
17 agreements, or other arrangements as often as is reasonably
18 necessary for the protection of the interests of the people of
19 this state. The ~~Director of Regulation and Licensure~~ Department of
20 Health and Human Services may make an examination concerning the
21 quality assurance program of any health maintenance organization
22 and any provider with whom such health maintenance organization
23 has contracts, agreements, or other arrangements as often as is
24 reasonably necessary for the protection of the interests of the
25 people of this state but not less frequently than once every three
26 years.

27 (2) Every health maintenance organization and provider

1 shall submit its books and records for an examination and in every
2 way facilitate the completion of the examination. For the purpose
3 of an examination, the Director of Insurance and the ~~Director of~~
4 ~~Regulation and Licensure~~ Department of Health and Human Services
5 may administer oaths to and examine the officers and agents of the
6 health maintenance organization and the principals of a provider
7 concerning the business. An examination shall not involve the
8 confidential communications between physicians and patients.

9 (3) The expenses of an examination shall be assessed
10 against the health maintenance organization being examined and
11 remitted to the Director of Insurance or the ~~Director of Regulation~~
12 ~~and Licensure~~ Department of Health and Human Services for whom
13 the examination is being conducted in the manner provided in the
14 Insurers Examination Act.

15 (4) In lieu of an examination, the Director of Insurance
16 or the ~~Director of Regulation and Licensure~~ Department of Health
17 and Human Services may accept the report of an examination
18 made by the insurance commissioner, insurance director, insurance
19 superintendent, or equivalent official or director of health or
20 equivalent official of another state.

21 Sec. 171. Section 44-32,153, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 44-32,153 If the Director of Insurance finds that any of
24 the conditions listed in this section exist, any certificate of
25 authority issued under the Health Maintenance Organization Act may
26 be suspended or revoked or any application for a certificate of
27 authority may be denied:

1 (1) The health maintenance organization is operating
2 significantly in contravention of its basic organizational document
3 or in a manner contrary to that described in any other information
4 submitted under section 44-32,117 unless amendments to such
5 submissions have been filed with and approved by the director;

6 (2) The health maintenance organization issues an
7 evidence of coverage or uses a schedule of charges for health care
8 services which does not comply with the requirements of sections
9 44-32,129 to 44-32,133 and 44-32,149;

10 (3) The health maintenance organization does not provide
11 or arrange for basic health care services;

12 (4) ~~The Director of Regulation and Licensure Department~~
13 of Health and Human Services certifies to the Director of Insurance
14 that:

15 (a) The health maintenance organization does not meet the
16 requirements of subsection (2) of section 44-32,119; or

17 (b) The health maintenance organization is unable to
18 fulfill its obligations to furnish health care services;

19 (5) The health maintenance organization is no longer
20 financially responsible and may reasonably be expected to be unable
21 to meet its obligations to enrollees or prospective enrollees;

22 (6) The health maintenance organization has failed to
23 correct, within the time prescribed by section 44-32,154, any
24 deficiency occurring due to such health maintenance organization's
25 prescribed minimum net worth being impaired;

26 (7) The health maintenance organization has failed to
27 implement grievance procedures in a reasonable manner to resolve

1 valid complaints;

2 (8) The health maintenance organization or any person
3 on its behalf has advertised or merchandised its services in an
4 untrue, misrepresentative, misleading, deceptive, or unfair manner;

5 (9) The continued operation of the health maintenance
6 organization would be hazardous to its enrollees; or

7 (10) The health maintenance organization has otherwise
8 failed substantially to comply with the act.

9 Sec. 172. Section 44-32,156, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 44-32,156 Suspension or revocation of a certificate of
12 authority, the denial of an application for a certificate, or the
13 imposition of an administrative penalty shall be by written order
14 and shall be sent by the Director of Insurance to the health
15 maintenance organization or applicant by certified or registered
16 mail and to the ~~Director of Regulation and Licensure.~~ Department
17 of Health and Human Services. The written order shall state the
18 grounds, charges, or conduct on which the suspension, revocation,
19 denial, or administrative penalty is based. The health maintenance
20 organization or applicant may in writing request a hearing within
21 thirty days from the date of mailing of the order. If no written
22 request is made, such order shall be final upon the expiration of
23 thirty days.

24 Sec. 173. Section 44-32,157, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 44-32,157 (1) If the health maintenance organization or
27 applicant requests a hearing pursuant to section 44-32,156, the

1 Director of Insurance shall issue a written notice of hearing and
2 send it to the health maintenance organization or applicant by
3 certified or registered mail and to the ~~Director of Regulation and~~
4 ~~Licensure~~ Department of Health and Human Services stating:

5 (a) A specific time for the hearing, which may not be
6 less than twenty nor more than thirty days after mailing of the
7 notice of hearing; and

8 (b) A specific place for the hearing, which may be either
9 in Lancaster County or in the county where the health maintenance
10 organization's or applicant's principal place of business is
11 located.

12 (2) If a hearing is requested, the ~~Director of Regulation~~
13 ~~and Licensure~~ chief executive officer of the Department of Health
14 and Human Services or his or her designated representative shall
15 be in attendance and shall participate in the proceedings. The
16 recommendations and findings of the ~~Director of Regulation and~~
17 ~~Licensure~~ chief executive officer with respect to matters relating
18 to the quality of health care services provided in connection
19 with any decision regarding denial, suspension, or revocation of a
20 certificate of authority shall be conclusive and binding upon the
21 Director of Insurance.

22 (3) After the hearing or upon failure of the health
23 maintenance organization to appear at such hearing, the Director
24 of Insurance shall take whatever action he or she deems necessary
25 based on written findings and shall mail his or her decision to
26 the health maintenance organization or applicant with a copy to
27 the ~~Director of Regulation and Licensure~~ Department of Health

1 and Human Services. The action of the Director of Insurance and
2 the recommendation and findings of the ~~Director of Regulation and~~
3 ~~Licensure~~ chief executive officer may be appealed, and the appeal
4 shall be in accordance with the Administrative Procedure Act. The
5 act shall apply to proceedings under this section to the extent it
6 is not in conflict with this section.

7 Sec. 174. Section 44-32,163, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 44-32,163 Every health maintenance organization subject
10 to the Health Maintenance Organization Act shall pay to the
11 director the following fees:

12 (1) For filing an application for a certificate of
13 authority or amendment thereto, three hundred dollars;

14 (2) For filing an amendment to the organizational
15 documents that requires approval, twenty dollars;

16 (3) For filing each annual report, two hundred dollars;

17 and

18 (4) For renewing a certificate of authority, one hundred
19 dollars.

20 Fees charged under this section shall be distributed
21 one-half to the Director of Insurance and one-half to the
22 Department of Health and Human Services. ~~Regulation and Licensure.~~

23 All fees or other assessments transmitted to the Department of
24 Health and Human Services ~~Regulation and Licensure~~ pursuant to the
25 act shall be remitted to the state treasury for credit to the
26 ~~Department of Health and Human Services Regulation and Licensure~~
27 Cash Fund. There shall be appropriated from money credited to the

1 fund pursuant to this section such amounts as are available to pay
2 expenses considered incident to the administration of the act.

3 Sec. 175. Section 44-32,165, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 44-32,165 If the Director of Insurance or the ~~Director of~~
6 ~~Regulation and Licensure~~ Department of Health and Human Services
7 has for any reason cause to believe that any violation of the
8 Health Maintenance Organization Act has occurred or is threatened,
9 the Director of Insurance or the ~~Director of Regulation and~~
10 ~~Licensure~~ Department of Health and Human Services may give notice
11 to the health maintenance organization and to the representatives
12 or other persons who appear to be involved in such suspected
13 violation to arrange a conference with the alleged violators or
14 their authorized representatives for the purpose of attempting
15 to ascertain the facts relating to such suspected violation and,
16 if it appears that any violation has occurred or is threatened,
17 to arrive at an adequate and effective means of correcting or
18 preventing such violation. Proceedings under this section shall
19 not be governed by any formal procedural requirements and may
20 be conducted in such manner as the Director of Insurance or the
21 ~~Director of Regulation and Licensure~~ Department of Health and
22 Human Services deems appropriate under the circumstances. Unless
23 consented to by the health maintenance organization, no rule or
24 order may result from a conference until the requirements of this
25 section are satisfied.

26 Sec. 176. Section 44-32,176, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 44-32,176 The ~~Director of Regulation and Licensure,~~
2 Department of Health and Human Services, in carrying out his or
3 her obligations under the Health Maintenance Organization Act, may
4 contract with qualified persons to make recommendations concerning
5 the determinations required to be made, by him or her. Such
6 recommendations may be accepted in full or in part by the ~~Director~~
7 of Regulation and Licensure, department.

8 Sec. 177. Section 44-4109.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 44-4109.01 Policies or contracts authorized by sections
11 44-4109 and 44-4110 are subject to the following requirements:

12 (1) A prospective insured shall be provided information
13 about the terms and conditions of the insurance arrangement to
14 enable him or her to make an informed decision about accepting a
15 system of health care delivery. If the insurance arrangement is
16 described orally to a prospective insured, the description shall
17 use easily understood, truthful, and objective terms. All written
18 descriptions shall be in a readable and understandable format.
19 Specific items that shall be included are:

20 (a) Coverage provisions, benefits, and any exclusions by
21 category of service, provider, or physician and, if applicable, by
22 specific service;

23 (b) Any prior authorization or other review requirements,
24 including preauthorization review, concurrent review, postservice
25 review, and postpayment review, the manner in which an insured
26 may obtain review of a denial of coverage, and the nature of
27 any liability an insured may incur if the insured does not

1 comply with the authorization requirements of the policy, contract,
2 certificate, or other materials; and

3 (c) Information on the insured's financial responsibility
4 for payment for deductibles, coinsurance, or other noncovered
5 services;

6 (2) If an insurer conducts customer satisfaction surveys
7 concerning an insurance arrangement, the results of such surveys
8 shall be made available upon request to existing and prospective
9 participants in insurance arrangements;

10 (3) The policy, contract, certificate, or other materials
11 shall establish a mechanism by which a committee of preferred
12 providers will be involved in reviewing and advising the insurance
13 arrangement about medical policy, including coverage of new
14 technology and procedures, quality and credentialing criteria, and
15 medical management procedures;

16 (4) All policies or contracts shall have a system for
17 credentialing participating preferred providers and shall allow
18 all providers within the insurance arrangement's geographic service
19 area to apply for such credentials periodically and not less than
20 annually. The credentialing process:

21 (a) Shall begin upon application of a provider for
22 inclusion in the policy or contract; and

23 (b) Shall be based solely on quality, accessibility, or
24 economic considerations and shall be applied in accordance with
25 reasonable business judgment.

26 Credentialing standards or criteria shall be made
27 available, upon request, to providers and insureds;

1 (5) If the policy or contract is with an organized
2 delivery system formed by insurers, hospitals, physicians, or
3 allied health professionals, or a combination of such entities,
4 participation by a provider may be limited to a participant in the
5 organized delivery system or to providers having staff privileges
6 at a particular health care facility;

7 (6) If an insurer or a participant in an insurance
8 arrangement refuses to contract with a provider, the provider shall
9 be permitted to appeal the adverse decision. A person conducting
10 the provider-appeal procedure may be employed by the insurer or
11 participant in an insurance arrangement if the person does not
12 initially participate in the decision to take adverse action
13 against the provider. The provider-appeal procedure shall include,
14 but not be limited to, notice of the date and time of the hearing,
15 a statement of the criteria or standards on which the decision
16 was based, an opportunity for the provider to review information
17 upon which the adverse decision was based, an opportunity for
18 the provider to appear personally at the hearing and present any
19 additional information, and a timely decision on the appeal;

20 (7) If the insurer or participant in an insurance
21 arrangement excludes or fails to retain a provider previously
22 contracted with to provide health care services, the provider shall
23 be permitted to appeal the adverse decision in the same manner
24 as set forth in subdivision (6) of this section. If the provider
25 disagrees with the decision, the provider shall be permitted to
26 appeal to an appeals committee consisting of one person selected
27 by each party to the appeal and one person mutually agreeable to

1 both parties. The parties to the appeal shall pay to the appeal
2 committee any costs associated with the person they select and
3 shall share the costs of the person mutually agreeable to both
4 parties, which costs shall not be recoverable by the other party;

5 (8) Prior to initiation of a proceeding to terminate
6 a provider's participation, the provider shall be given an
7 opportunity to enter into and complete a corrective action plan,
8 except in cases of fraud or imminent harm to patient health or when
9 the provider's ability to provide services has been restricted by
10 an action, including probation or any compliance agreements, by the
11 Department of Health and Human Services ~~Regulation and Licensure~~ or
12 other governmental agency; and

13 (9) Policies and contracts shall not exclude providers
14 with practices containing a substantial number of patients having
15 severe or expensive medical conditions, except that this section
16 shall not prohibit plans from excluding providers who fail to meet
17 the insurance arrangement's criteria for quality, accessibility, or
18 economic considerations.

19 Sec. 178. Section 44-7006, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 44-7006 (1) A health carrier shall:

22 (a) Establish written policies and procedures for
23 credentialing verification of all health care professionals with
24 whom the health carrier contracts and apply these standards
25 consistently;

26 (b) Verify the credentials of a health care professional
27 before entering into a contract with that health care professional.

1 The medical director of the health carrier or other designated
2 health care professional shall have responsibility for, and shall
3 participate in, credentialing verification;

4 (c) Establish a credentialing verification committee
5 consisting of licensed physicians and other health care
6 professionals to review credentialing verification information and
7 supporting documents and make decisions regarding credentialing
8 verification;

9 (d) Make available for review by the applying health care
10 professional upon written request all application and credentialing
11 verification policies and procedures;

12 (e) Retain all records and documents relating to a health
13 care professional's credentialing verification process for at least
14 five years; and

15 (f) Keep confidential all information obtained in the
16 credentialing verification process except as otherwise provided by
17 law.

18 (2) Nothing in the Health Care Professional Credentialing
19 Verification Act shall be construed to require a health carrier
20 to select a provider as a participating provider solely because
21 the provider meets the health carrier's credentialing verification
22 standards or to prevent a health carrier from utilizing separate or
23 additional criteria in selecting the health care professionals with
24 whom it contracts.

25 (3) The policies and procedures for credentialing
26 verification shall be available for review by the director, and,
27 in the case of a health maintenance organization, shall also be

1 available for review by the chief medical officer, if one is
2 appointed pursuant to section ~~81-3201~~, 6 of this act, and if not,
3 then the Director of ~~Regulation and Licensure~~, Public Health.

4 Sec. 179. Section 44-7107, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 44-7107 (1) A contract between a health carrier and an
7 intermediary shall satisfy all the requirements contained in this
8 section.

9 (2) (a) Intermediaries and participating providers
10 with whom they contract shall comply with all the applicable
11 requirements of section 44-7106.

12 (b) A health carrier's statutory responsibility to
13 monitor the offering of covered benefits to covered persons shall
14 not be delegated or assigned to the intermediary.

15 (c) A health carrier shall have the right to approve or
16 disapprove participation status of a subcontracted provider in its
17 own or a contracted network for the purpose of delivering covered
18 benefits to the health carrier's covered persons.

19 (d) A health carrier shall maintain copies of all
20 intermediary health care subcontracts at its principal place
21 of business in the state, or ensure that it has access to
22 all intermediary subcontracts, including the right to make
23 copies to facilitate regulatory review, upon twenty days' prior
24 written notice from the health carrier. A health carrier may
25 meet the requirements of this subdivision by maintaining a
26 copy of the intermediary health care subcontract forms used
27 by its intermediaries, and if the health carrier does so, the

1 health carrier shall also maintain a copy of any portion of an
2 intermediary health care subcontract which substantially differs
3 from the intermediary health care subcontract form in subject areas
4 other than reimbursement.

5 (e) If applicable, an intermediary shall transmit
6 utilization documentation and claims paid documentation to the
7 health carrier. The health carrier shall monitor the timeliness
8 and appropriateness of payments made to providers and health care
9 services received by covered persons.

10 (f) If applicable, an intermediary shall maintain the
11 books, records, financial information, and documentation of health
12 care services provided to covered persons at its principal place of
13 business in the state and preserve them for five years in a manner
14 that facilitates regulatory review.

15 (g) An intermediary shall allow the director and a health
16 maintenance organization shall allow the director and the ~~Director~~
17 ~~of Regulation and Licensure~~ Department of Health and Human Services
18 access to the intermediary's books, records, financial information,
19 and any documentation of health care services provided to covered
20 persons, as necessary to determine compliance with the Managed Care
21 Plan Network Adequacy Act.

22 (h) A health carrier shall have the right, in the event
23 of the intermediary's insolvency, to require the assignment to
24 the health carrier of the provisions of a provider's contract
25 addressing the provider's obligation to furnish covered services.

26 Sec. 180. Section 44-7206, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 44-7206 A health carrier that provides managed care
2 plans shall develop and maintain the infrastructure and disclosure
3 systems necessary to measure the quality of health care services
4 provided to covered persons on a regular basis and appropriate to
5 the types of managed care plans offered by the health carrier. A
6 health carrier shall:

7 (1) Establish a system designed to assess the quality
8 of health care provided to covered persons and appropriate to the
9 types of managed care plans offered by the health carrier. The
10 system shall include systematic collection, analysis, and reporting
11 of relevant data in accordance with statutory and regulatory
12 requirements;

13 (2) Communicate findings in a timely manner to applicable
14 regulatory agencies, providers, and consumers as provided in
15 section 44-7209;

16 (3) Report to the appropriate licensing authority any
17 persistent pattern of problematic care provided by a provider that
18 is sufficient to cause the health carrier to terminate or suspend
19 contractual arrangements with the provider. A health carrier acting
20 in good faith shall be granted immunity from any cause of action
21 under state law in making the report; and

22 (4) Develop a written description of the quality
23 assessment program available for review by the director, which
24 shall include a signed certification by a corporate officer of
25 the health carrier that the filing meets the requirements of the
26 Quality Assessment and Improvement Act. The written description of
27 the quality assessment program of a health maintenance organization

1 shall also be available for review by the ~~Director of Regulation~~
2 ~~and Licensure~~, Department of Health and Human Services.

3 Sec. 181. Section 44-7306, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 44-7306 (1) A health carrier shall maintain in a
6 grievance register written records to document all grievances
7 received during a calendar year. A request for a first-level
8 review of an adverse determination shall be processed in compliance
9 with section 44-7308 but not considered a grievance for purposes
10 of the grievance register unless such request includes a written
11 grievance. A request for a second-level review of an adverse
12 determination shall be considered a grievance for purposes of the
13 grievance register. For each grievance required to be recorded in
14 the grievance register, the grievance register shall contain, at a
15 minimum, the following information:

16 (a) A general description of the reason for the
17 grievance;

18 (b) Date received;

19 (c) Date of each review or hearing;

20 (d) Resolution at each level of the grievance;

21 (e) Date of resolution at each level; and

22 (f) Name of the covered person for whom the grievance was
23 filed.

24 (2) The grievance register shall be maintained in a
25 manner that is reasonably clear and accessible to the director. A
26 grievance register maintained by a health maintenance organization
27 shall also be accessible to the ~~Director of Regulation~~ and

1 ~~Licensure~~. Department of Health and Human Services.

2 (3) A health carrier shall retain the grievance register
3 compiled for a calendar year for the longer of three years or until
4 the director has adopted a final report of an examination that
5 contains a review of the grievance register for that calendar year.

6 Sec. 182. Section 46-602, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 46-602 (1) Each water well completed in this state on
9 or after July 1, 2001, excluding test holes and dewatering wells
10 to be used for less than ninety days, shall be registered with
11 the Department of Natural Resources as provided in this section
12 within sixty days after completion of construction of the water
13 well. The water well contractor as defined in section 46-1213
14 constructing the water well, or the owner of the water well if
15 the owner constructed the water well, shall file the registration
16 on a form made available by the department and shall also file
17 with the department the information from the well log required
18 pursuant to section 46-1241. The department shall, by January 1,
19 2002, provide water well contractors with the option of filing such
20 registration forms electronically. No signature shall be required
21 on forms filed electronically. The fee required by subsection (3)
22 of section 46-1224 shall be the source of funds for any required
23 fee to a contractor which provides the on-line services for such
24 registration. Any discount in the amount paid the state by a credit
25 card, charge card, or debit card company or a third-party merchant
26 bank for such registration fees shall be deducted from the portion
27 of the registration fee collected pursuant to section 46-1224.

1 (2)(a) If the newly constructed water well is a
2 replacement water well, the registration form shall include
3 (i) the registration number of the water well being replaced,
4 if applicable, and (ii) the date the original water well was
5 decommissioned or a certification that the water well will be
6 decommissioned within one hundred eighty days or a certification
7 that the original water well will be modified and equipped to
8 pump fifty gallons per minute or less and will be used only for
9 livestock, monitoring, observation, or any other nonconsumptive use
10 or de minimus use approved by the applicable natural resources
11 district.

12 (b) For purposes of this section, replacement water well
13 means a water well which is constructed to provide water for
14 the same purpose as the original water well and is operating in
15 accordance with any applicable permit from the department and any
16 applicable rules and regulations of the natural resources district
17 and, if the purpose is for irrigation, the replacement water well
18 delivers water to the same tract of land served by the original
19 water well and (i) replaces an abandoned water well within three
20 years after the last operation of the abandoned water well and
21 the original water well is decommissioned either before or within
22 one hundred eighty days after such construction, (ii) replaces a
23 water well that has not been abandoned but will not be used after
24 construction of the new water well and the original water well
25 will be decommissioned within one hundred eighty days after such
26 construction, except that in the case of a municipal water well,
27 the original municipal water well may be used after construction

1 of the new water well but shall be decommissioned within one year
2 after completion of the replacement water well, or (iii) will
3 continue to be used but will be modified and equipped within one
4 hundred eighty days after such construction of the replacement
5 water well to pump fifty gallons per minute or less and will
6 be used only for livestock, monitoring, observation, or any other
7 nonconsumptive or de minimus use and approved by the applicable
8 natural resources district.

9 (c) No water well shall be registered as a replacement
10 water well until the Department of Natural Resources has received
11 a properly completed notice of decommissioning for the water well
12 being replaced on a form made available by the department, or
13 properly completed notice, prepared in accordance with subsection
14 (7) of this section, of the modification and equipping of the
15 original water well to pump fifty gallons per minute or less
16 for use only for livestock, monitoring, observation, or any other
17 nonconsumptive or de minimus use approved by the applicable natural
18 resources district. Such notices, as required, shall be completed
19 by (i) the water well contractor as defined in section 46-1213
20 who decommissions the water well or modifies and equips the water
21 well, (ii) the pump installation contractor as defined in section
22 46-1209 who decommissions the water well or modifies and equips the
23 water well, or (iii) the owner if the owner decommissions a driven
24 sandpoint well which is on land owned by him or her for farming,
25 ranching, or agricultural purposes or as his or her place of
26 abode. The Department of Health and Human Services ~~Regulation and~~
27 ~~Licensure~~ shall, by rule and regulation, determine which contractor

1 or owner shall be responsible for such notice in situations in
2 which more than one contractor or owner may be required to provide
3 notice under this subsection.

4 (3) For a series of two or more water wells completed and
5 pumped into a common carrier as part of a single site plan for
6 irrigation purposes, a registration form and a detailed site plan
7 shall be filed for each water well. The registration form shall
8 include the registration numbers of other water wells included in
9 the series if such water wells are already registered.

10 (4) A series of water wells completed for purposes
11 of installation of a ground heat exchanger for a structure
12 for utilizing the geothermal properties of the ground shall be
13 considered as one water well. One registration form and a detailed
14 site plan shall be filed for each such series.

15 (5) One registration form shall be required along with
16 a detailed site plan which shows the location of each such water
17 well in the site and a log from each such water well for water
18 wells constructed as part of a single site plan for (a) monitoring
19 ground water, obtaining hydrogeologic information, or extracting
20 contaminants from the ground, (b) water wells constructed as part
21 of remedial action approved by the Department of Environmental
22 Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and
23 (c) water well owners who have a permit issued pursuant to the
24 Industrial Ground Water Regulatory Act and also have an underground
25 injection control permit issued by the Department of Environmental
26 Quality.

27 (6) The Department of Natural Resources shall be notified

1 by the owner of any change in the ownership of a water well
2 required to be registered under this section. Notification shall be
3 in such form and include such evidence of ownership as the Director
4 of Natural Resources by rule and regulation directs. The department
5 shall use such notice to update the registration on file. The
6 department shall not collect a fee for the filing of the notice.

7 (7) The water well contractor or pump installation
8 contractor responsible therefor shall notify the department within
9 sixty days on a form provided by the department of any pump
10 installation or any modifications to the construction of the water
11 well or pump, after the initial registration of the well. For
12 a change of use resulting in modification and equipping of an
13 original water well which is being replaced in accordance with
14 subsection (2) of this section, the water well contractor or pump
15 installation contractor shall notify the department within sixty
16 days on a form provided by the department of the water well and
17 pump modifications and equipping of the original water well. A
18 water well owner shall notify the department within sixty days on
19 a form provided by the department of any other changes or any
20 inaccuracies in recorded water well information, including, but not
21 limited to, changes in use. The department shall not collect a fee
22 for the filing of the notice.

23 (8) Whenever a water well becomes an illegal water well
24 as defined in section 46-706, the owner of the water well shall
25 either correct the deficiency that causes the well to be an illegal
26 water well or shall cause the proper decommissioning of the water
27 well in accordance with rules and regulations adopted pursuant

1 to the Water Well Standards and Contractors' Licensing Act. The
2 water well contractor who decommissions the water well, the pump
3 installation contractor who decommissions the water well, or the
4 owner if the owner decommissions a driven sandpoint well which is
5 on land owned by him or her for farming, ranching, or agricultural
6 purposes or as his or her place of abode, shall provide a properly
7 completed notice of abandonment to the Department of Natural
8 Resources within sixty days. The Department of Health and Human
9 Services ~~Regulation and Licensure~~ shall, by rule and regulation,
10 determine which contractor or owner shall be responsible for such
11 notice in situations in which more than one contractor or owner may
12 be required to provide notice under this subsection. The Department
13 of Natural Resources shall not collect a fee for the filing of the
14 notice.

15 (9) Except for water wells which are used solely for
16 domestic purposes and were constructed before September 9, 1993,
17 and for test holes and dewatering wells used for less than ninety
18 days, each water well which was completed in this state before
19 July 1, 2001, and which is not registered on that date shall be an
20 illegal water well until it is registered with the Department of
21 Natural Resources. Such registration shall be completed by a water
22 well contractor or by the current owner of the water well, shall
23 be on forms provided by the department, and shall provide as much
24 of the information required by subsections (1) through (5) of this
25 section for registration of a new water well as is possible at the
26 time of registration.

27 (10) Water wells which are or were used solely for

1 injecting any fluid other than water into the underground water
2 reservoir, which were constructed before July 16, 2004, and which
3 have not been properly decommissioned on or before July 16, 2004,
4 shall be registered on or before July 1, 2005.

5 Sec. 183. Section 46-705, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 46-705 Nothing in the Nebraska Ground Water Management
8 and Protection Act shall be construed to limit the powers of the
9 Department of Health and Human Services ~~Regulation and Licensure~~
10 provided in the Nebraska Safe Drinking Water Act.

11 Nothing in the Nebraska Ground Water Management and
12 Protection Act relating to the contamination of ground water is
13 intended to limit the powers of the Department of Environmental
14 Quality provided in Chapter 81, article 15.

15 Sec. 184. Section 46-724, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 46-724 If the Director of Environmental Quality
18 determines from the study conducted pursuant to section 46-722 that
19 one or more sources of contamination are not point sources and if a
20 management area, a purpose of which is protection of water quality,
21 has been established which includes the affected area, the Director
22 of Environmental Quality shall consider whether to require the
23 district which established the management area to adopt an action
24 plan as provided in sections 46-725 to 46-729.

25 If the Director of Environmental Quality determines that
26 one or more of the sources are not point sources and if such
27 a management area has not been established or does not include

1 all the affected area, he or she shall, within thirty days after
2 completion of the report required by section 46-722, consult with
3 the district within whose boundaries the area affected by such
4 contamination is located and fix a time and place for a public
5 hearing to consider the report, hear any other evidence, and secure
6 testimony on whether a management area should be designated or
7 whether an existing area should be modified. The hearing shall be
8 held within one hundred twenty days after completion of the report.
9 Notice of the hearing shall be given as provided in section 46-743,
10 and the hearing shall be conducted in accordance with such section.

11 At the hearing, all interested persons shall be allowed
12 to appear and present testimony. The Conservation and Survey
13 Division of the University of Nebraska, the Department of Health
14 and Human Services, ~~Regulation and Licensure~~, the Department of
15 Natural Resources, and the appropriate district may offer as
16 evidence any information in their possession which they deem
17 relevant to the purpose of the hearing. After the hearing and after
18 any studies or investigations conducted by or on behalf of the
19 Director of Environmental Quality as he or she deems necessary,
20 the director shall determine whether a management area shall be
21 designated.

22 Sec. 185. Section 46-1011, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 46-1011 Plans and specifications for any proposed
25 improvement authorized by sections 46-1001 to 46-1020 shall be
26 filed with the director, the Department of Health and Human
27 Services, ~~Regulation and Licensure~~, and the secretary of the

1 district. No construction of any such improvement shall begin
2 until the plans and specifications for such improvement have been
3 approved by the director and the Department of Health and Human
4 Services, ~~Regulation and Licensure~~, except that if the improvement
5 involves a public water system as defined in section 71-5301,
6 only the Department of Health and Human Services ~~Regulation and~~
7 ~~Licensure~~ shall be required to review the plans and specifications
8 for such improvement and approve the same if in compliance with
9 Chapter 71, article 53, and departmental regulations adopted
10 thereunder.

11 The total benefits of any such improvement shall be
12 divided into a suitable number of benefit units. Each landowner
13 within the district shall subscribe to a number of such units
14 in proportion to the extent he or she desires to participate
15 in the benefits of the improvements. As long as the capacity of
16 the district's facilities permits, participating members of the
17 district may subscribe to additional units upon payment of a unit
18 fee for each such unit. Owners of land located within the district
19 who are not participating members may subscribe to such units as
20 the board in its discretion may grant, and upon payment of the unit
21 fee for each such unit shall be entitled to the same rights as
22 original participating members. If the capacity of the district's
23 facilities permits, the district may sell water to persons engaged
24 in hauling water and to any political subdivision organized under
25 the laws of the State of Nebraska.

26 Sec. 186. Section 46-1018, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 46-1018 It shall be the duty of the chairperson of the
2 board of directors to keep in repair such works as are constructed
3 by the district as authorized in sections 46-1001 to 46-1020 and
4 to operate such works, all as directed by the board. Such works
5 shall be operated in conformance with the rules and regulations
6 of the Department of Health and Human Services ~~Regulation and~~
7 ~~Licensure~~ relating to water supply systems. The chairperson and
8 all persons who may perform any service or labor as provided in
9 sections 46-1001 to 46-1020 shall be paid such just and reasonable
10 compensation as may be allowed by the board of directors, and
11 such board shall annually prepare an estimated budget for the
12 coming year, adjust water rates, if necessary to produce sufficient
13 revenue required by such budget, cause an annual audit of the
14 district's records and accounts to be made, and make a report on
15 such matters at each annual meeting.

16 Sec. 187. Section 46-1204.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 46-1204.01 Abandoned water well means any water well
19 (1) the use of which has been accomplished or permanently
20 discontinued, (2) which has been decommissioned as described
21 in the rules and regulations of the Department of Health and
22 Human Services, ~~Regulation and Licensure~~, and (3) for which the
23 notice of abandonment required by subsection (2) of section 46-602
24 has been filed with the Department of Natural Resources by the
25 licensed water well contractor or pump installation contractor who
26 decommissioned the water well or by the water well owner if the
27 owner decommissioned the water well.

1 Sec. 188. Section 46-1207, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 46-1207 Department shall mean the Department of Health
4 and Human Services, ~~Regulation and Licensure.~~

5 Sec. 189. Section 46-1217, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 46-1217 There is hereby created a Water Well Standards
8 and Contractors' Licensing Board. The board shall be composed
9 of ten members, six of whom shall be appointed by the Governor
10 as follows: (1) A water well contractor representing irrigation
11 water well contractors, (2) a water well contractor representing
12 domestic water well contractors, (3) a water well contractor
13 representing municipal and industrial water well contractors, (4)
14 a pump installation contractor, (5) a manufacturer or supplier of
15 water well or pumping equipment, and (6) a holder of a license or
16 certificate issued under the Water Well Standards and Contractors'
17 Licensing Act employed by a natural resources district. The
18 ~~Director of Health and Human Services Regulation and Licensure~~
19 ~~or his or her designated representative,~~ chief executive officer
20 of the Department of Health and Human Services or his or her
21 designated representative, the Director of Environmental Quality
22 or his or her designated representative, the Director of Natural
23 Resources or his or her designated representative, and the director
24 of the Conservation and Survey Division of the University of
25 Nebraska or his or her designated representative shall also serve
26 as members of the board. Each member shall be a resident of the
27 state. Each appointed member of the board shall have had at least

1 five years of experience in the business of his or her category
2 prior to appointment and shall be actively engaged in such business
3 at the time of appointment and while serving on the board. Each
4 member representing a category subject to licensing under the Water
5 Well Standards and Contractors' Licensing Act, with the exception
6 of members initially appointed, shall be licensed by the department
7 pursuant to such act. In making appointments, the Governor may
8 consider recommendations made by the trade associations of each
9 category.

10 Sec. 190. Section 46-1235, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 46-1235 In cases other than those relating to failure
13 to meet the requirements for an initial license or an initial
14 certificate, the department may deny, refuse renewal of, suspend,
15 or revoke licenses or certificates or may take other disciplinary
16 action for any of the following acts or offenses:

17 (1) Practice of fraud or deceit in obtaining a license or
18 certificate;

19 (2) Violation of the Water Well Standards and
20 Contractors' Licensing Act or any standards, rules, or regulations
21 adopted and promulgated pursuant to such act;

22 (3) Incompetence or gross negligence in the performance
23 of any activity for which licenses or certificates are issued
24 pursuant to the act;

25 (4) Conduct or practices detrimental to the health
26 or safety of persons hiring the services of the licensee or
27 certificate holder or of members of the general public;

1 (5) Practice of the trade fraudulently, beyond the
2 authorized scope, or with manifest incapacity;

3 (6) Practice of the trade while the ability to practice
4 is impaired by alcohol, controlled substances, narcotic drugs, or
5 physical disability;

6 (7) Permitting, aiding, or abetting the practice of the
7 trade or the performance of activities requiring a license or
8 certificate by a person not licensed or certified to do so;

9 (8) Having had a license or certificate denied,
10 refused renewal, limited, suspended, or revoked or having been
11 disciplined in any other manner by another state or jurisdiction
12 to practice water well construction, water well drilling, water
13 well decommissioning, or pump installation based upon acts by
14 the applicant, licensee, or certificate holder similar to acts
15 described in this section. A certified copy of the record of
16 denial, refusal of renewal, limitation, suspension, or revocation
17 of a license or certificate or the taking of other disciplinary
18 action by another state or jurisdiction shall be conclusive
19 evidence;

20 (9) Unprofessional conduct as may be defined in rules and
21 regulations of the board with approval of the department;

22 (10) Practice of the trade while the license or
23 certificate to do so is suspended or practice of the trade
24 in contravention of any limitation placed upon the license or
25 certificate;

26 (11) Failing to file a water well registration required
27 by subsection (1), (2), (3), (4), or (5) of section 46-602 or

1 failing to file a notice required by subsection (7) of such
2 section; or

3 (12) Failing to file a properly completed notice of
4 abandonment of a water well required by subsection (8) of section
5 46-602.

6 A licensee or certificate holder shall not engage in the
7 practice of the trade after a license or certificate is revoked
8 or during the time for which it is suspended. If a license or
9 certificate is suspended, the suspension shall be for a definite
10 period of time to be fixed by the ~~Director of Regulation and~~
11 ~~Licensure~~, department, and such license or certificate shall be
12 automatically reinstated upon the expiration of such period if the
13 current renewal fee has been paid. If such license or certificate
14 is revoked, such revocation shall be for one year.

15 Sec. 191. Section 46-1235.01, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 46-1235.01 The authority of the ~~Director of Regulation~~
18 ~~and Licensure~~ department to discipline a licensee or certificate
19 holder by placing him or her on probation pursuant to sections
20 46-1235 and 46-1237.02 shall include, but not be limited to, the
21 following:

22 (1) To require the licensee or certificate holder to
23 obtain additional professional training and to pass an examination
24 upon the completion of the training. The examination may be written
25 or oral, or both, and may be a practical or technical examination,
26 or both, or any or all of such combinations of written, oral,
27 practical, and technical at the option of the ~~director~~, department;

1 or

2 (2) To restrict or limit the extent, scope, or type of
3 practice of the licensee or certificate holder upon consultation
4 with the board.

5 Sec. 192. Section 46-1237.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 46-1237.01 The department may temporarily suspend or
8 limit a license or certificate without notice or hearing if the
9 ~~Director of Regulation and Licensure~~ department determines that
10 there is reasonable cause to believe that grounds exist under
11 section 46-1235 for the revocation, suspension, or limitation of
12 the license or certificate and that the licensee's or certificate
13 holder's continuation in practice would constitute an imminent
14 danger to public health and safety. Simultaneously with any such
15 action, the department shall institute proceedings for a hearing on
16 the grounds for revocation, suspension, or limitation. Such hearing
17 shall be held no later than fifteen days from the date of such
18 temporary suspension or limitation. A continuance of the hearing
19 shall be granted by the department upon written request of the
20 licensee or certificate holder, and such a continuance shall not
21 exceed thirty days. An order of temporary suspension or limitation
22 shall take effect when served in person upon the licensee or
23 certificate holder. A temporary suspension or limitation shall not
24 be in effect for a period in excess of one hundred eighty days.
25 At the end of such one-hundred-eighty-day period, the license or
26 certificate shall be reinstated unless the department has revoked,
27 suspended, or limited the license or certificate after notice and

1 hearing.

2 Sec. 193. Section 46-1237.02, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 46-1237.02 (1) All proceedings under the Water Well
5 Standards and Contractors' Licensing Act shall be summary in
6 nature and triable as equity actions. Affidavits may be received
7 in evidence at the discretion of the ~~Director of Regulation~~
8 ~~and Licensure~~ department. The department may administer oaths,
9 subpoena witnesses and compel their attendance, and issue subpoenas
10 duces tecum and require the production of books, accounts, and
11 documents in the same manner and to the same extent as a district
12 court. Depositions may be used by either party.

13 (2) Upon the completion of any hearing, the ~~director~~
14 department may enter an order to exercise any or all of the
15 following powers irrespective of the petition:

16 (a) Issue a censure or reprimand against the licensee or
17 certificate holder;

18 (b) Suspend judgment;

19 (c) Place the licensee or certificate holder on
20 probation;

21 (d) Place a limitation on the license or certificate
22 and upon the right of the licensee or certificate holder to
23 practice the trade to such extent, scope, or type of practice, for
24 such time, and under such conditions as are found necessary and
25 proper. The ~~director~~ department shall consult with the board in all
26 instances prior to issuing an order of limitation;

27 (e) Impose a civil penalty under section 46-1240. The

1 amount of the penalty shall be based on the severity of the
2 violation;

3 (f) Enter an order of suspension;

4 (g) Enter an order of revocation; or

5 (h) Dismiss the action.

6 (3) If a licensee or certificate holder fails to appear,
7 either in person or by counsel, at the time and place designated
8 in a notice, the ~~director~~, department, after receiving satisfactory
9 evidence of the truth of the charges, shall order the license
10 or certificate revoked or suspended or shall order any other
11 appropriate disciplinary action.

12 (4) Any order issued under the act may be appealed. The
13 appeal shall be in accordance with the Administrative Procedure
14 Act.

15 Sec. 194. Section 46-1240.05, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 46-1240.05 (1) Whenever the ~~Director of Regulation and~~
18 ~~Licensure~~ department has reason to believe that a violation of any
19 provision of the Water Well Standards and Contractors' Licensing
20 Act or any rule or regulation adopted and promulgated by the
21 department is occurring or has occurred, ~~he or she~~ the department
22 may cause an administrative order to be served upon the person
23 alleged to be in violation. Such order shall specify the violation
24 and the facts alleged to constitute a violation and shall order
25 that necessary corrective action be taken within a reasonable time
26 to be prescribed in such order. Any such order shall become final
27 unless the person named in the order requests in writing a hearing

1 before the ~~director~~ department no later than thirty days after the
2 date such order is served. In lieu of such order, the ~~director~~
3 department may require that the person appear before the ~~director~~
4 department at a time and place specified in the notice and answer
5 the charges. The notice shall be served on the person not less than
6 thirty days before the time set for the hearing.

7 (2) Whenever the ~~director~~ department finds that an
8 emergency exists requiring immediate action to protect the public
9 health and welfare concerning a chemical, material, procedure, or
10 act which is determined by the ~~director~~ department to be harmful or
11 potentially harmful to human health, the ~~director~~ department may,
12 without notice or hearing, issue an order reciting the existence
13 of such an emergency and requiring that such action be taken as
14 the ~~director~~ department deems necessary to meet the emergency. Such
15 order shall be effective immediately. Any person to whom such order
16 is directed shall comply immediately and, on written application
17 to the ~~director~~, department, shall be afforded a hearing as soon
18 as possible and not later than ten days after receipt of such
19 application by such affected person. On the basis of such hearing,
20 the ~~director~~ department shall continue such order in effect, revoke
21 it, or modify it.

22 (3) The ~~director~~ department shall afford to the alleged
23 violator an opportunity for a hearing before the department.

24 Sec. 195. Section 47-623, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 47-623 (1) The council shall include the following voting
27 members:

1 (a) The executive director of the Nebraska Commission on
2 Law Enforcement and Criminal Justice;

3 (b) The Director of Correctional Services;

4 (c) The chairperson of the Board of Parole;

5 (d) The Parole Administrator; and

6 (e) Nine members appointed by the Governor with the
7 approval of a majority of the Legislature, consisting of: One
8 representative from a list of persons nominated by the Nebraska
9 Criminal Defense Attorneys Association; one representative from
10 a list of persons nominated by the Nebraska County Attorneys
11 Association; one full-time officer or employee of a law enforcement
12 agency; one mental health and substance abuse professional; from
13 each congressional district, one provider of community-based
14 behavioral health services; and two at-large members.

15 (2) The council shall include the following nonvoting
16 members:

17 (a) The State Court Administrator;

18 (b) The probation administrator;

19 (c) Two members of the Legislature, appointed by the
20 Executive Board of the Legislative Council;

21 (d) Two judges of the district court, appointed by the
22 Chief Justice of the Supreme Court; and

23 ~~(e) The Director of Health and Human Services or his or~~
24 ~~her designee.~~

25 (e) The chief executive officer of the Department of
26 Health and Human Services or his or her designee.

27 (3) The terms of office for members initially appointed

1 under subdivision (1) (e) of this section shall be three years. Upon
2 completion of the initial terms of such members, the Governor shall
3 appoint (a) a representative from law enforcement, a mental health
4 and substance abuse professional, and one at-large member for
5 terms of one year, (b) a representative of the Nebraska Criminal
6 Defense Attorneys Association, one provider of community-based
7 behavioral health services from the first congressional district,
8 one provider of community-based behavioral health services from the
9 third congressional district, and one at-large member for terms
10 of two years, and (c) a representative of the Nebraska County
11 Attorneys Association and a provider of community-based behavioral
12 health services from the second congressional district for terms of
13 three years. Succeeding appointees shall be appointed for terms of
14 three years. An appointee to a vacancy occurring from an unexpired
15 term shall serve out the term of his or her predecessor. Members
16 whose terms have expired shall continue to serve until their
17 successors have been appointed and qualified.

18 (4) The council shall by majority vote elect a
19 chairperson from among the members of the council.

20 (5) The members of the council shall be reimbursed for
21 their actual and necessary expenses incurred while engaged in
22 the performance of their official duties as provided in sections
23 81-1174 to 81-1177.

24 Sec. 196. Section 48-602, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 48-602 For purposes of the Employment Security Law,
27 unless the context otherwise requires:

1 (1) Base period shall mean the last four completed
2 calendar quarters immediately preceding the first day of an
3 individual's benefit year, except that the commissioner may
4 prescribe by rule and regulation that base period shall mean the
5 first four of the last five completed calendar quarters immediately
6 preceding the first day of an individual's benefit year;

7 (2) Benefits shall mean the money payments payable to an
8 individual with respect to his or her unemployment;

9 (3) Benefit year, with respect to any individual, shall
10 mean the one-year period beginning with the first day of the first
11 week with respect to which the individual first files a valid claim
12 for benefits, and thereafter the one-year period beginning with the
13 first day of the first week with respect to which the individual
14 next files a valid claim for benefits after the termination of his
15 or her last preceding benefit year. Any claim for benefits made in
16 accordance with section 48-629 shall be deemed to be a valid claim
17 for the purpose of this subdivision if the individual has been
18 paid the wages for insured work required under section 48-627. For
19 the purposes of this subdivision a week with respect to which an
20 individual files a valid claim shall be deemed to be in, within,
21 or during that benefit year which includes the greater part of such
22 week;

23 (4) Calendar quarter shall mean the period of three
24 consecutive calendar months ending on March 31, June 30, September
25 30, or December 31, or the equivalent thereof as the Commissioner
26 of Labor may by rule and regulation prescribe;

27 (5) Client shall mean any individual, partnership,

1 limited liability company, corporation, or other legally recognized
2 entity that contracts with a professional employer organization
3 to obtain professional employer services relating to worksite
4 employees through a professional employer agreement;

5 (6) Combined tax shall mean the employer liability
6 consisting of contributions and the state unemployment insurance
7 tax;

8 (7) Combined tax rate shall mean the rate which is
9 applied to wages to determine the combined taxes due;

10 (8) Commissioner shall mean the Commissioner of Labor;

11 (9) Contribution rate shall mean the percentage of the
12 combined tax rate used to determine the contribution portion of the
13 combined tax;

14 (10) Contributions shall mean that portion of the
15 combined tax based upon the contribution rate portion of the
16 combined tax rate which is deposited in the state Unemployment
17 Compensation Fund as required by sections 48-648 and 48-649;

18 (11) Department shall mean the Department of Labor;

19 (12) Employment office shall mean a free public
20 employment office or branch thereof, operated by this state or
21 maintained as a part of a state-controlled system of public
22 employment offices, including public employment offices operated by
23 an agency of a foreign government;

24 (13) Fund shall mean the Unemployment Compensation Fund
25 established by section 48-617 to which all contributions and
26 payments in lieu of contributions required and from which all
27 benefits provided shall be paid;

1 (14) Hospital shall mean an institution which has been
2 licensed, certified, or approved by the Department of Health and
3 Human Services ~~Regulation and Licensure~~ as a hospital;

4 (15) Institution of higher education shall mean an
5 institution which: (a) Admits as regular students only individuals
6 having a certificate of graduation from a high school or the
7 recognized equivalent of such a certificate; (b) is legally
8 authorized in this state to provide a program of education beyond
9 high school; (c) provides an educational program for which it
10 awards a bachelor's degree or higher or provides a program which
11 is acceptable for full credit toward such a degree, a program of
12 postgraduate or postdoctoral studies, or a program of training to
13 prepare students for gainful employment in a recognized occupation;
14 and (d) is a public or other nonprofit institution; notwithstanding
15 any of the foregoing provisions of this subdivision, all colleges
16 and universities in this state are institutions of higher education
17 for purposes of this section;

18 (16) Insured work shall mean employment for employers;

19 (17) Leave of absence shall mean any absence from work:

20 (a) Mutually and voluntarily agreed to by the employer and the
21 employee; (b) mutually and voluntarily agreed to between the
22 employer and the employee's bargaining agent; or (c) to which the
23 employee is entitled to as a matter of state or federal law;

24 (18) Paid vacation leave shall mean a period of time
25 while employed or following separation from employment in which the
26 individual renders no services to the employer but is entitled to
27 receive vacation pay equal to or exceeding his or her base weekly

1 wage;

2 (19) Payments in lieu of contributions shall mean the
3 money payments to the Unemployment Compensation Fund required by
4 sections 48-649, 48-652, 48-660.01, and 48-661;

5 (20) Professional employer agreement shall mean a written
6 professional employer services contract whereby:

7 (a) A professional employer organization agrees to
8 provide payroll services, employee benefit administration, or
9 personnel services for a majority of the employees providing
10 services to the client at a client worksite;

11 (b) The agreement is intended to be ongoing rather than
12 temporary in nature; and

13 (c) Employer responsibilities for worksite employees,
14 including those of hiring, firing, and disciplining, are shared
15 between the professional employer organization and the client
16 by contract. The term professional employer agreement shall not
17 include a contract between a parent corporation, company, or other
18 entity and a wholly owned subsidiary;

19 (21) Professional employer organization shall mean any
20 individual, partnership, limited liability company, corporation, or
21 other legally recognized entity that enters into a professional
22 employer agreement with a client or clients for a majority of
23 a client's workforce at a client worksite. The term professional
24 employer organization shall not include an insurer as defined in
25 section 44-103 or a temporary help firm;

26 (22) State includes, in addition to the states of the
27 United States of America, any dependency of the United States, the

1 Commonwealth of Puerto Rico, the Virgin Islands, and the District
2 of Columbia;

3 (23) State unemployment insurance tax shall mean that
4 portion of the combined tax which is based upon the state
5 unemployment insurance tax rate portion of the combined tax rate
6 and which is deposited in the State Unemployment Insurance Trust
7 Fund as required by sections 48-648 and 48-649;

8 (24) State unemployment insurance tax rate shall mean the
9 percentage of the combined tax rate used to determine the state
10 unemployment insurance tax portion of the combined tax;

11 (25) Temporary employee shall mean an employee of a
12 temporary help firm assigned to work for the clients of such
13 temporary help firm;

14 (26) Temporary help firm shall mean a firm that hires
15 its own employees and assigns them to clients to support or
16 supplement the client's work force in work situations such as
17 employee absences, temporary skill shortages, seasonal workloads,
18 and special assignments and projects;

19 (27) Unemployed shall mean an individual during any week
20 in which the individual performs no service and with respect to
21 which no wages are payable to the individual or any week of less
22 than full-time work if the wages payable with respect to such week
23 are less than the individual's weekly benefit amount, but shall not
24 include any individual on a leave of absence or on paid vacation
25 leave. When an agreement between the employer and a bargaining unit
26 representative does not allocate vacation pay allowance or pay in
27 lieu of vacation to a specified period of time during a period of

1 temporary layoff or plant shutdown, the payment by the employer or
2 his or her designated representative will be deemed to be wages
3 as defined in this section in the week or weeks the vacation is
4 actually taken;

5 (28) Unemployment Trust Fund shall mean the trust fund
6 in the Treasury of the United States of America established under
7 section 904 of the federal Social Security Act, 42 U.S.C. 1104, as
8 such section existed on March 2, 2001, which receives credit from
9 the state Unemployment Compensation Fund;

10 (29) Wages, except with respect to services performed
11 in employment as provided in subdivisions (4)(c) and (d) of
12 section 48-604, shall mean all remuneration for personal services,
13 including commissions and bonuses, remuneration for personal
14 services paid under a contract of hire, and the cash value of
15 all remunerations in any medium other than cash. The reasonable
16 cash value of remuneration in any medium other than cash shall be
17 estimated and determined in accordance with rules and regulations
18 prescribed by the commissioner. After December 31, 1985, wages
19 shall include tips which are received while performing services
20 which constitute employment and which are included in a written
21 statement furnished to the employer pursuant to section 6053(a) of
22 the Internal Revenue Code as defined in section 49-801.01.

23 With respect to services performed in employment in
24 agricultural labor as is provided in subdivision (4)(c) of section
25 48-604 or in domestic service as is provided in subdivision (4)(d)
26 of section 48-604, wages shall mean cash remuneration for such
27 services.

1 The term wages shall not include:

2 (a) The amount of any payment, including any amount paid
3 by an employer for insurance or annuities or into a fund to
4 provide for such payment, made to, or on behalf of, an individual
5 in employment or any of his or her dependents under a plan
6 or system established by an employer which makes provision for
7 such individuals generally or for a class or classes of such
8 individuals, including any amount paid by an employer for insurance
9 or annuities or into a fund to provide for any such payment, on
10 account of (i) sickness or accident disability, except, in the case
11 of payments made to an employee or any of his or her dependents,
12 this subdivision (i) shall exclude from wages only payments which
13 are received under a workers' compensation law, (ii) medical and
14 hospitalization expenses in connection with sickness or accident
15 disability, or (iii) death;

16 (b) The payment by an employer, without deduction from
17 the remuneration of the employee, of the tax imposed upon an
18 employee under section 3101 of the Internal Revenue Code as defined
19 in section 49-801.01;

20 (c) Any payment on account of sickness or accident
21 disability, or medical or hospitalization expenses in connection
22 with sickness or accident disability, made by an employer to, or
23 on behalf of, an individual after the expiration of six calendar
24 months following the last calendar month in which such individual
25 worked for such employer;

26 (d) Any payment made to, or on behalf of, an individual
27 or his or her beneficiary (i) from or to a trust described in

1 section 401(a) of the Internal Revenue Code as defined in section
2 49-801.01 which is exempt from tax under section 501(a) of the
3 Internal Revenue Code as defined in section 49-801.01 at the time
4 of such payment unless such payment is made to an employee of the
5 trust as remuneration for services rendered as such employee and
6 not as a beneficiary of the trust or (ii) under or to an annuity
7 plan which, at the time of such payment, meets the requirements
8 of section 401 of the Internal Revenue Code as defined in section
9 49-801.01;

10 (e) Any payment made to, or on behalf of, an employee
11 or his or her beneficiary (i) under a simplified employee pension
12 as defined by the commissioner, (ii) under or to an annuity
13 contract as defined by the commissioner, other than a payment
14 for the purchase of such contract which is made by reason of
15 a salary reduction agreement, whether evidenced by a written
16 instrument or otherwise, (iii) under or to an exempt governmental
17 deferred compensation plan as defined by the commissioner, (iv)
18 to supplement pension benefits under a plan or trust, as defined
19 by the commissioner, to take into account some portion or all of
20 the increase in the cost of living since retirement, but only if
21 such supplemental payments are under a plan which is treated as a
22 welfare plan, or (v) under a cafeteria benefits plan;

23 (f) Remuneration paid in any medium other than cash to an
24 individual for service not in the course of the employer's trade or
25 business;

26 (g) Benefits paid under a supplemental unemployment
27 benefit plan which satisfies the eight points set forth in Internal

1 Revenue Service Revenue Ruling 56-249 as the ruling existed on
2 March 2, 2001, and is in compliance with the standards set forth in
3 Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the
4 rulings existed on March 2, 2001; and

5 (h) Remuneration for service performed in the employ of
6 any state in the exercise of his or her duties as a member of the
7 Army National Guard or Air National Guard or in the employ of the
8 United States of America as a member of any military reserve unit;

9 (30) Week shall mean such period of seven consecutive
10 days as the commissioner may by rule and regulation prescribe;

11 (31) Week of unemployment with respect to any individual
12 shall mean any week during which he or she performs less than
13 full-time work and the wages payable to him or her with respect to
14 such week are less than his or her weekly benefit amount;

15 (32) Wholly owned subsidiary means a corporation,
16 company, or other entity which has eighty percent or more of
17 its outstanding voting stock or membership owned or controlled,
18 directly or indirectly, by the parent entity; and

19 (33) Worksite employee shall mean a person receiving
20 wages or benefits from a professional employer organization
21 pursuant to the terms of a professional employer agreement for work
22 performed at a client's worksite.

23 Sec. 197. Section 48-647, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 48-647 (1) Any assignment, pledge, or encumbrance of any
26 right to benefits which are or may become due or payable under
27 sections 48-623 to 48-626 shall be void except as set forth in

1 this section. Such rights to benefits shall be exempt from levy,
2 execution, attachment, or any other remedy whatsoever provided for
3 the collection of debt. Benefits received by any individual, so
4 long as they are not mingled with other funds of the recipient,
5 shall be exempt from any remedy whatsoever for the collection of
6 all debts except debts incurred for necessities furnished to such
7 individual or his or her spouse or dependents during the time
8 when such individual was unemployed. Any waiver of any exemption
9 provided for in this section shall be void. Any assignment,
10 pledge, or encumbrance of any right or claim to contributions or
11 to any money credited to any employer's reserve account in the
12 Unemployment Compensation Fund shall be void, and the same shall
13 be exempt from levy, execution, attachment, or any other remedy
14 whatsoever provided for the collection of debt, and any waiver of
15 any exemption provided for in this section shall be void.

16 (2) (a) An individual filing a new claim for unemployment
17 compensation shall, at the time of filing such claim, disclose
18 whether or not he or she owes child support obligations as defined
19 under subdivision (h) of this subsection. If such individual
20 discloses that he or she owes child support obligations and
21 is determined to be eligible for unemployment compensation, the
22 commissioner shall notify the ~~Director~~ Department of Health and
23 Human Services that the individual has been determined to be
24 eligible for unemployment compensation.

25 (b) The commissioner shall deduct and withhold from
26 any unemployment compensation otherwise payable to an individual
27 disclosing child support obligations:

1 (i) The amount specified by the individual to the
2 commissioner to be deducted under this subsection, if neither
3 subdivision (ii) nor (iii) of this subdivision is applicable;

4 (ii) The amount, if any, determined pursuant to an
5 agreement between the ~~director~~ Department of Health and Human
6 Services and such individual owing the child support obligations to
7 have a specified amount withheld and such agreement being submitted
8 to the commissioner, unless subdivision (iii) of this subdivision
9 is applicable; or

10 (iii) The amount otherwise required to be so deducted
11 and withheld from such unemployment compensation pursuant to legal
12 process, as that term is defined in subdivision (2)(i) of this
13 section, properly served upon the commissioner.

14 (c) Any amount deducted and withheld under subdivision
15 (b) of this subsection shall be paid by the commissioner to the
16 ~~director~~. Department of Health and Human Services.

17 (d) Any amount deducted and withheld under subdivision
18 (b) or (g) of this subsection shall for all purposes be treated
19 as if it were paid to the individual as unemployment compensation
20 and paid by such individual to the ~~director~~ Department of Health
21 and Human Services in satisfaction of his or her child support
22 obligations.

23 (e) For purposes of subdivisions (a) through (d) and
24 (g) of this subsection, the term unemployment compensation shall
25 mean any compensation payable under the Employment Security Law
26 and including amounts payable by the commissioner pursuant to
27 an agreement by any federal law providing for compensation,

1 assistance, or allowances with respect to unemployment.

2 (f) This subsection shall apply only if appropriate
3 arrangements have been made for reimbursement by the Department of
4 Health and Human Services for the administrative costs incurred by
5 the commissioner under this section which are attributable to child
6 support obligations being enforced by the department.

7 (g) The ~~director~~ Department of Health and Human Services
8 and the commissioner shall develop and implement a collection
9 system to carry out the intent of this subdivision. The collection
10 system shall, at a minimum, provide that:

11 (i) The commissioner shall periodically notify the
12 ~~director~~ Department of Health and Human Services of the information
13 listed in section 43-1719 with respect to individuals determined to
14 be eligible for unemployment compensation during such period;

15 (ii) Unless the county attorney, the authorized attorney,
16 or the Department of Health and Human Services has sent a notice on
17 the same support order under section 43-1720, upon the notification
18 required by subdivision (2)(g)(i) of this section, the ~~director~~
19 Department of Health and Human Services shall send notice to
20 any such individual who owes child support obligations and who
21 is subject to income withholding pursuant to subdivision (2)(a),
22 (2)(b)(ii), or (2)(b)(iii) of section 43-1718.01. The notice shall
23 be sent by certified mail to the last-known address of the
24 individual and shall state the same information as required under
25 section 43-1720;

26 (iii)(A) If the support obligation is not based on a
27 foreign support order entered pursuant to section 43-1729 and the

1 individual requests a hearing, the Department of Health and Human
2 Services shall hold a hearing within fifteen days of the date of
3 receipt of the request. The hearing shall be in accordance with
4 the Administrative Procedure Act. The assignment shall be held in
5 abeyance pending the outcome of the hearing. The department shall
6 notify the individual and the commissioner of its decision within
7 fifteen days of the date the hearing is held; and

8 (B) If the support obligation is based on a foreign
9 support order entered pursuant to section 43-1729 and the
10 individual requests a hearing, the county attorney or authorized
11 attorney shall apply the procedures described in sections 43-1732
12 to 43-1742;

13 (iv) (A) If no hearing is requested by the individual
14 under this subsection or pursuant to a notice sent under section
15 43-1720, (B) if after a hearing under this subsection or section
16 43-1721 the ~~department~~ Department of Health and Human Services
17 determines that the assignment should go into effect, (C) in cases
18 in which the court has ordered income withholding for child support
19 pursuant to subsection (1) of section 43-1718.01, or (D) in cases
20 in which the court has ordered income withholding for child support
21 pursuant to section 43-1718.02 and the case subsequently becomes
22 one in which child support collection services are being provided
23 under Title IV-D of the federal Social Security Act, as amended,
24 the ~~director~~ Department of Health and Human Services shall certify
25 to the commissioner the amount to be withheld for child support
26 obligations from the individual's unemployment compensation. Such
27 amount shall not in any case exceed the maximum amount permitted

1 to be withheld under section 303(b) of the federal Consumer Credit
2 Protection Act, 15 U.S.C. 1673(b)(2)(A) and (B), and the amount
3 withheld to satisfy an arrearage of child support when added to
4 the amount withheld to pay current support shall not exceed such
5 maximum amount;

6 (v) The collection system shall comply with the
7 requirements of Title III and Title IV-D of the federal Social
8 Security Act, as amended;

9 (vi) The collection system shall be in addition to and
10 not in substitution for or derogation of any other available
11 remedy; and

12 (vii) The ~~director~~ Department of Health and Human
13 Services and the commissioner shall adopt and promulgate rules and
14 regulations to carry out subdivision (2)(g) of this section.

15 (h) For purposes of this subsection, the term child
16 support obligations shall include only obligations which are being
17 enforced pursuant to a plan described in section 454 of the federal
18 Social Security Act which has been approved by the Secretary of
19 Health and Human Services under Part D of Title IV of the federal
20 Social Security Act.

21 (i) For purposes of this subsection, the term legal
22 process shall mean any writ, order, summons, or other similar
23 process in the nature of garnishment, which:

24 (i) Is issued by a court of competent jurisdiction
25 of any state, territory, or possession of the United States or
26 an authorized official pursuant to order of such a court of
27 competent jurisdiction or pursuant to state law. For purposes of

1 this subdivision, the ~~Director of Health and Human Services~~ chief
2 executive officer of the Department of Health and Human Services
3 shall be deemed an authorized official pursuant to order of a court
4 of competent jurisdiction or pursuant to state law; and

5 (ii) Is directed to, and the purpose of which is
6 to compel, the commissioner to make a payment for unemployment
7 compensation otherwise payable to an individual in order to satisfy
8 a legal obligation of such individual to provide child support.

9 (j) Nothing in this subsection shall be construed to
10 authorize withholding from unemployment compensation of any support
11 obligation other than child support obligations.

12 (3) (a) An individual filing a new claim for unemployment
13 compensation shall, at the time of filing such claim, disclose
14 whether or not he or she owes an uncollected overissuance, as
15 defined in section 13(c) (1) of the federal Food Stamp Act of 1977,
16 of food stamp benefits, if not otherwise known or disclosed to
17 the state food stamp agency. The commissioner shall notify the
18 state food stamp agency enforcing such obligation of any individual
19 disclosing that he or she owes an uncollected overissuance whom the
20 commissioner determines is eligible for unemployment compensation.

21 (b) The commissioner shall deduct and withhold from any
22 unemployment compensation payable to an individual who owes an
23 uncollected overissuance (i) the amount specified by the individual
24 to the commissioner to be deducted and withheld under this
25 subsection, (ii) the amount, if any, determined pursuant to an
26 agreement submitted to the state food stamp agency under section
27 13(c) (3) (A) of the federal Food Stamp Act of 1977, or (iii)

1 any amount otherwise required to be deducted and withheld from
2 unemployment compensation pursuant to section 13(c)(3)(B) of such
3 federal act.

4 (c) Any amount deducted and withheld under this
5 subsection shall be paid by the commissioner to the state food
6 stamp agency.

7 (d) Any amount deducted and withheld under subdivision
8 (b) of this subsection shall be treated for all purposes as if it
9 were paid to the individual as unemployment compensation and paid
10 by such individual to the state food stamp agency as repayment of
11 the individual's uncollected overissuance.

12 (e) For purposes of this subsection, unemployment
13 compensation means any compensation payable under the Employment
14 Security Law, including amounts payable by the commissioner
15 pursuant to an agreement under any federal law providing
16 for compensation, assistance, or allowances with respect to
17 unemployment.

18 (f) This subsection applies only if arrangements have
19 been made for reimbursement by the state food stamp agency for
20 the administrative costs incurred by the commissioner under this
21 subsection which are attributable to the repayment of uncollected
22 overissuances to the state food stamp agency.

23 Sec. 198. Section 48-1902, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 48-1902 For purposes of sections 48-1901 to 48-1910,
26 unless the context otherwise requires:

27 (1) Alcohol shall mean any product of distillation of

1 any fermented liquid, whether rectified or diluted, whatever may be
2 the origin thereof, synthetic ethyl alcohol, the four varieties of
3 liquor defined in subdivisions (1) through (4) of section 53-103,
4 alcohol, spirits, wine, and beer, every liquid or solid, patented
5 or not, containing alcohol, spirits, wine, or beer, and alcohol
6 used in the manufacture of denatured alcohol, flavoring extracts,
7 syrups, or medicinal, mechanical, scientific, culinary, and toilet
8 preparations;

9 (2) Breath-testing device shall mean intoxilyzer model
10 4011AS or other scientific testing equivalent as approved by and
11 operated in accordance with the department rules and regulations;

12 (3) Breath-testing-device operator shall mean a person
13 who has obtained or been issued a permit pursuant to the department
14 rules and regulations;

15 (4) Department shall mean the Department of Health and
16 Human Services; ~~Regulation and Licensure;~~

17 (5) Department rules and regulations shall mean the
18 techniques and methods authorized pursuant to section 60-6,201;

19 (6) Drug shall mean any substance, chemical, or compound
20 as described, defined, or delineated in sections 28-405 and 28-419
21 or any metabolite or conjugated form thereof, except that any
22 substance, chemical, or compound containing any product as defined
23 in subdivision (1) of this section may also be defined as alcohol;

24 (7) Employee shall mean any person who receives any
25 remuneration, commission, bonus, or other form of wages in return
26 for such person's actions which directly or indirectly benefit an
27 employer; and

1 (8) Employer shall mean the State of Nebraska and its
2 political subdivisions, all other governmental entities, or any
3 individual, association, corporation, or other organization doing
4 business in the State of Nebraska unless it, he, or she employs a
5 total of less than six full-time and part-time employees at any one
6 time.

7 Sec. 199. Section 48-2305, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 48-2305 An employer that has employees who are employed
10 in two or more states and that transmits reports magnetically
11 or electronically may comply with the New Hire Reporting Act by
12 designating one of such states in which the employer has employees
13 as the state to which the employer will transmit the report
14 described in section 48-2303. Any Nebraska employer that transmits
15 reports pursuant to this section shall notify the ~~Director~~ of
16 ~~Health and Human Services~~ department in writing of the state which
17 such employer designates for the purpose of transmitting reports.

18 Sec. 200. Section 48-2306, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 48-2306 On and after October 1, 1998, the department may
21 levy a fine not to exceed twenty-five dollars for each employee not
22 reported by the employer to the department. The department shall
23 determine whether or not to levy a fine based upon the good faith
24 efforts of an employer to comply with the New Hire Reporting Act.
25 The department shall remit fines collected under this section to
26 the State Treasurer for distribution in accordance with Article
27 VII, section 5, of the Constitution of Nebraska. ~~The department~~

1 ~~shall remit any money collected pursuant to this section to the~~
2 ~~State Treasurer for credit to the permanent school fund.~~

3 Sec. 201. Section 48-2307, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 48-2307 The Director of Health and Human Services
6 department shall issue a report to the Legislature on or before
7 January 31 of each year which discloses the number of employees
8 reported to the department and the number of matches during the
9 preceding calendar year for purposes of the New Hire Reporting Act.

10 Sec. 202. Section 49-506, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 49-506 After the Secretary of State has made the
13 distribution provided by section 49-503, he or she shall deliver
14 additional copies of the session laws and the journal of the
15 Legislature pursuant to this section in print or electronic format
16 as he or she determines, upon recommendation by the Clerk of the
17 Legislature and approval of the Executive Board of the Legislative
18 Council.

19 One copy of the session laws shall be delivered to
20 the Lieutenant Governor, the State Treasurer, the Auditor of
21 Public Accounts, the Reporter of the Supreme Court and Court of
22 Appeals, the State Court Administrator, the State Fire Marshal,
23 the Department of Administrative Services, the Department of
24 Aeronautics, the Department of Agriculture, the Department of
25 Banking and Finance, the State Department of Education, the
26 Department of Environmental Quality, the Department of Insurance,
27 the Department of Labor, the Department of Motor Vehicles, the

1 Department of Property Assessment and Taxation, the Department
2 of Revenue, the Department of Roads, the Department of Veterans'
3 Affairs, the Department of Natural Resources, the Military
4 Department, the Nebraska State Patrol, the Nebraska Commission
5 on Law Enforcement and Criminal Justice, each of the Nebraska
6 state colleges, the Game and Parks Commission, the Nebraska
7 Library Commission, the Nebraska Liquor Control Commission, the
8 Nebraska Accountability and Disclosure Commission, the Public
9 Service Commission, the State Real Estate Commission, the Nebraska
10 State Historical Society, the Public Employees Retirement Board,
11 the Risk Manager, the Legislative Fiscal Analyst, the Public
12 Counsel, the materiel division of the Department of Administrative
13 Services, the State Records Administrator, the budget division
14 of the Department of Administrative Services, ~~the Department of~~
15 ~~Health and Human Services,~~ the Department of Health and Human
16 ~~Services Regulation and Licensure,~~ the Department of Health and
17 ~~Human Services Finance and Support,~~ the Tax Equalization and Review
18 Commission, the inmate library at all state penal and correctional
19 institutions, the Commission on Public Advocacy, and the Library of
20 Congress; two copies to the Governor, the Secretary of State, the
21 Nebraska Workers' Compensation Court, the Commission of Industrial
22 Relations, and the Coordinating Commission for Postsecondary
23 Education, one of which shall be for use by the community colleges;
24 three copies to the Department of Health and Human Services; four
25 copies to the Nebraska Publications Clearinghouse; five copies
26 to the Attorney General; nine copies to the Revisor of Statutes;
27 sixteen copies to the Supreme Court and the Legislative Council;

1 and thirty-five copies to the University of Nebraska College of
2 Law.

3 One copy of the journal of the Legislature shall be
4 delivered to the Governor, the Lieutenant Governor, the State
5 Treasurer, the Auditor of Public Accounts, the Reporter of the
6 Supreme Court and Court of Appeals, the State Court Administrator,
7 the Nebraska State Historical Society, the Legislative Fiscal
8 Analyst, the Tax Equalization and Review Commission, the Commission
9 on Public Advocacy, and the Library of Congress; two copies to
10 the Secretary of State, the Commission of Industrial Relations,
11 and the Nebraska Workers' Compensation Court; four copies to the
12 Nebraska Publications Clearinghouse; five copies to the Attorney
13 General and the Revisor of Statutes; eight copies to the Clerk
14 of the Legislature; thirteen copies to the Supreme Court and the
15 Legislative Council; and thirty-five copies to the University of
16 Nebraska College of Law. The remaining copies shall be delivered
17 to the State Librarian who shall use the same, so far as required
18 for exchange purposes, in building up the State Library and in the
19 manner specified in sections 49-507 to 49-509.

20 Sec. 203. Section 49-617, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 49-617 The Revisor of Statutes shall cause the statutes
23 to be printed. The printer shall deliver all completed copies to
24 the Supreme Court. These copies shall be held and disposed of
25 by the court as follows: Sixty copies to the State Library to
26 exchange for statutes of other states; five copies to the State
27 Library to keep for daily use; not to exceed twenty-five copies

1 to the Legislative Council for bill drafting and related services
2 to the Legislature and executive state officers; as many copies
3 to the Attorney General as he or she has attorneys on his or her
4 staff; as many copies to the Commission on Public Advocacy as it
5 has attorneys on its staff; up to sixteen copies to the State
6 Court Administrator; twelve copies to the Tax Commissioner; eight
7 copies to the Nebraska Publications Clearinghouse; six copies to
8 the Public Service Commission; four copies to the Secretary of
9 State; four copies to the Clerk of the Legislature for use in his
10 or her office and three copies to be maintained in the legislative
11 chamber, one copy on each side of the chamber and one copy at the
12 desk of the Clerk of the Legislature, under control of the sergeant
13 at arms; three copies to the Auditor of Public Accounts; three
14 copies to the Department of Health and Human Services; two copies
15 each to the Governor of the state, the Chief Justice and each
16 judge of the Supreme Court, each judge of the Court of Appeals,
17 the Clerk of the Supreme Court, the Reporter of the Supreme Court
18 and Court of Appeals, the Commissioner of Labor, and the Revisor
19 of Statutes; one copy each to the Secretary of State of the United
20 States, each Indian tribal court located in the State of Nebraska,
21 the library of the Supreme Court of the United States, the Adjutant
22 General, the Air National Guard, the Commissioner of Education,
23 the State Treasurer, the Board of Educational Lands and Funds, the
24 Director of Agriculture, the Director of Administrative Services,
25 the Director of Aeronautics, the Director of Economic Development,
26 the director of the Public Employees Retirement Board, the
27 Director-State Engineer, the Director of Banking and Finance, the

1 Director of Insurance, the Director of Motor Vehicles, the Property
2 Tax Administrator, the Director of Veterans' Affairs, the Director
3 of Natural Resources, the Director of Correctional Services, the
4 Nebraska Emergency Operating Center, each judge of the Nebraska
5 Workers' Compensation Court, each judge of the Commission of
6 Industrial Relations, the Nebraska Liquor Control Commission, the
7 State Real Estate Commission, the Tax Equalization and Review
8 Commission, the secretary of the Game and Parks Commission, the
9 Board of Pardons, ~~the Department of Health and Human Services,~~ ~~the~~
10 ~~Department of Health and Human Services Regulation and Licensure,~~
11 ~~the Department of Health and Human Services Finance and Support,~~
12 each state institution under the Department of Health and Human
13 Services, each state institution under the State Department of
14 Education, the State Surveyor, the Nebraska State Patrol, the
15 materiel division of the Department of Administrative Services, the
16 personnel division of the Department of Administrative Services,
17 the Nebraska Motor Vehicle Industry Licensing Board, the Board of
18 Trustees of the Nebraska State Colleges, each of the Nebraska state
19 colleges, each district judge of the State of Nebraska, each judge
20 of the county court, each judge of a separate juvenile court,
21 the Lieutenant Governor, each United States Senator from Nebraska,
22 each United States Representative from Nebraska, each clerk of the
23 district court for the use of the district court, the clerk of
24 the Nebraska Workers' Compensation Court, each clerk of the county
25 court, each county attorney, each county public defender, each
26 county law library, and the inmate library at all state penal and
27 correctional institutions, and each member of the Legislature shall

1 be entitled to two complete sets, and two complete sets of such
2 volumes as are necessary to update previously issued volumes, but
3 each member of the Legislature and each judge of any court referred
4 to in this section shall be entitled, on request, to an additional
5 complete set. Copies of the statutes distributed without charge,
6 as listed in this section, shall be the property of the state or
7 governmental subdivision of the state and not the personal property
8 of the particular person receiving a copy. Distribution of statutes
9 to the library of the College of Law of the University of Nebraska
10 shall be as provided in sections 85-176 and 85-177.

11 Sec. 204. Section 54-703, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 54-703 (1) The Department of Agriculture and all
14 inspectors and persons appointed and authorized to assist in the
15 work of the department shall enforce sections 54-701 to 54-753.05,
16 54-797 to 54-7,103, and 54-7,105 to 54-7,108 as designated.

17 (2) The department and any officer, agent, employee, or
18 appointee of the department shall have the right to enter upon
19 the premises of any person who has, or is suspected of having,
20 any animal thereon, including any premises where the carcass or
21 carcasses of dead livestock may be found or where a facility for
22 the disposal or storage of dead livestock is located, for the
23 purpose of making any and all inspections, examinations, tests, and
24 treatments of such animal, to inspect livestock carcass disposal
25 practices, and to declare, carry out, and enforce any and all
26 quarantines.

27 (3) The department, in consultation with the Department

1 of Environmental Quality and the Department of Health and Human
2 Services, ~~Regulation and Licensure~~, may adopt and promulgate rules
3 and regulations reflecting best management practices for the burial
4 of carcasses of dead livestock.

5 (4) The Department of Agriculture shall further adopt and
6 promulgate such rules and regulations as are necessary to promptly
7 and efficiently enforce and effectuate the general purpose and
8 provisions of such sections.

9 Sec. 205. Section 54-744.01, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 54-744.01 (1) Livestock carcasses may be disposed of
12 in a research or demonstration facility for innovative livestock
13 disposal methods registered with the Department of Agriculture,
14 except that a research or demonstration facility of liquefaction
15 shall not be registered under this section and liquefaction
16 shall not be permitted as a method of livestock disposal. The
17 registration of a facility under this section shall contain a
18 description of the facility, the location and proposed duration of
19 the research or demonstration, and a description of the method of
20 disposal to be utilized. The department may register up to five
21 such research or demonstration facilities conducted in conjunction
22 with private livestock operations which meet all of the following
23 conditions:

24 (a) The project is designed and conducted by one or more
25 research faculty of the University of Nebraska;

26 (b) The project does not duplicate other research or
27 demonstration projects;

1 (c) The project sponsors submit annual reports on the
2 project and a final report at the conclusion of the project;

3 (d) The project employs adequate safeguards against
4 disease transmission or environmental contamination; and

5 (e) The project meets any other conditions deemed prudent
6 by the director.

7 (2) It is the intent of the Legislature that the
8 department register at least one research or demonstration facility
9 for innovative livestock disposal methods which shall be located
10 upon the premises of an animal feeding operation as defined in
11 section 54-2417. Before registering such facility, the department
12 shall first consult with the Department of Environmental Quality
13 and the Department of Health and Human Services. ~~Regulation~~
14 ~~and Licensure.~~ The Department of Agriculture may revoke the
15 registration of the facility at any time if the director has
16 reason to believe that the facility no longer meets the conditions
17 for registration.

18 (3) Only the carcasses of livestock that have died
19 upon the animal feeding operation premises where a research or
20 demonstration facility for innovative livestock disposal methods is
21 located may be disposed of at such facility. Carcasses from other
22 locations shall not be transported to such facility for disposal.

23 (4) A facility registered under this section is exempt
24 from the requirements for disposal of solid waste under the
25 Integrated Solid Waste Management Act.

26 Sec. 206. Section 54-747, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 54-747 Whenever any animal has been adjudged to
2 be affected with any infectious, contagious, or otherwise
3 transmissible disease, other than a disease for which specific
4 legislation exists, and has been ordered killed, the owner or
5 custodian thereof shall be notified of such finding and order.
6 Within forty-eight hours thereafter, such owner or custodian may
7 file a protest with the Department of Agriculture stating under
8 oath that to the best of his or her knowledge and belief such
9 animal is free from such infectious, contagious, or otherwise
10 transmissible disease. Thereupon, an examination of the animal
11 involved shall be made by three veterinarians, graduates of a
12 college of veterinary medicine which has been approved by the
13 Department of Health and Human Services ~~Regulation and Licensure~~ as
14 a preliminary qualification for admission to practice veterinary
15 medicine in the state. One of such veterinarians shall be appointed
16 by the department, one by the person making such protest, and
17 the two thus appointed shall choose the third. In case all three
18 veterinarians or any two of them find such animal to be free from
19 such infectious, contagious, or otherwise transmissible disease,
20 the expense of such examination shall be paid by the state. In
21 case the three veterinarians or any two of them find such animal
22 to be affected with such infectious, contagious, or otherwise
23 transmissible disease, the expense of the examination shall be
24 paid by the person making the protest. The department and the
25 person making such protest shall be bound by the result of such
26 examination.

27 Sec. 207. Section 60-3,135, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 60-3,135 (1)(a) Undercover license plates may be issued
3 to state, county, city, or village law enforcement agencies
4 and shall be used only for legitimate criminal investigatory
5 purposes. Undercover license plates may also be issued to the
6 Nebraska State Patrol, the Game and Parks Commission, deputy
7 state sheriffs employed by the Nebraska Brand Committee and State
8 Fire Marshal for state law enforcement purposes, persons employed
9 by the Tax Commissioner for state revenue enforcement purposes,
10 the Department of Health and Human Services for the purposes of
11 communicable disease control, ~~or for~~ the prevention and control of
12 those communicable diseases which endanger the public health, ~~the~~
13 ~~Department of Health and Human Services Regulation and Licensure in~~
14 the enforcement of drug control laws, ~~or for~~ other investigation
15 purposes, the Department of Agriculture for special investigative
16 purposes, and the Insurance Fraud Prevention Division of the
17 Department of Insurance for investigative purposes. Undercover
18 license plates shall not be used on personally owned vehicles or
19 for personal use of government-owned vehicles.

20 (b) The director shall prescribe a form for agencies to
21 apply for undercover license plates. The form shall include a space
22 for the name and signature of the contact person for the requesting
23 agency, a statement that the undercover license plates are to be
24 used only for legitimate criminal investigatory purposes, and a
25 statement that undercover license plates are not to be used on
26 personally owned vehicles or for personal use of government-owned
27 vehicles.

1 (2) The agency shall include the name and signature of
2 the contact person for the agency on the form and pay the fee
3 prescribed in section 60-3,102. If the undercover license plates
4 will be used for the investigation of a specific event rather than
5 for ongoing investigations, the agency shall designate on the form
6 an estimate of the length of time the undercover license plates
7 will be needed. The contact person in the agency shall sign the
8 form and verify the information contained in the form.

9 (3) Upon receipt of a completed form, the director shall
10 determine whether the undercover license plates will be used by an
11 approved agency for a legitimate purpose pursuant to subsection (1)
12 of this section. If the director determines that the undercover
13 license plates will be used for such a purpose, he or she may issue
14 the undercover license plates in the form and under the conditions
15 he or she determines to be necessary. The decision of the director
16 regarding issuance of undercover license plates is final.

17 (4) The department shall keep records pertaining to
18 undercover license plates confidential, and such records shall not
19 be subject to public disclosure.

20 (5) The contact person shall return the undercover
21 license plates to the department if:

22 (a) The undercover license plates expire and are not
23 renewed;

24 (b) The purpose for which the undercover license plates
25 were issued has been completed or terminated; or

26 (c) The director requests their return.

27 (6) A state agency, board, or commission that uses

1 motor vehicles from the transportation services bureau of the
2 Department of Administrative Services shall notify the bureau
3 immediately after undercover license plates have been assigned to
4 the motor vehicle and shall provide the equipment and license plate
5 number and the undercover license plate number to the bureau. The
6 transportation services bureau shall maintain a list of state-owned
7 motor vehicles which have been assigned undercover license plates.
8 The list shall be confidential and not be subject to public
9 disclosure.

10 (7) The contact person shall be held accountable to keep
11 proper records of the number of undercover plates possessed by
12 the agency, the particular license plate numbers for each motor
13 vehicle, and the person who is assigned to the motor vehicle.
14 This record shall be confidential and not be subject to public
15 disclosure.

16 Sec. 208. Section 60-480.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 60-480.01 (1)(a) Undercover drivers' licenses may be
19 issued to state, county, city, or village law enforcement agencies
20 and shall be used only for legitimate criminal investigatory
21 purposes. Undercover drivers' licenses may also be issued to the
22 Nebraska State Patrol, the Game and Parks Commission, deputy
23 state sheriffs employed by the Nebraska Brand Committee and
24 State Fire Marshal for state law enforcement purposes, persons
25 employed by the Tax Commissioner for state revenue enforcement
26 purposes, the Department of Health and Human Services for the
27 purposes of communicable disease control, ~~or for~~ the prevention and

1 control of those communicable diseases which endanger the public
2 health, ~~the Department of Health and Human Services Regulation~~
3 ~~and Licensure in~~ the enforcement of drug control laws, or ~~for~~
4 other investigation purposes, and the Department of Agriculture for
5 special investigative purposes. Undercover drivers' licenses are
6 not for personal use.

7 (b) The director shall prescribe a form for agencies
8 to apply for undercover drivers' licenses. The form shall include
9 a space for the name and signature of the contact person for
10 the requesting agency, a statement that the undercover drivers'
11 licenses are to be used only for legitimate criminal investigatory
12 purposes, and a statement that undercover drivers' licenses are not
13 for personal use.

14 (2) The agency shall include the name and signature of
15 the contact person for the agency on the form and pay the fees
16 prescribed in section 60-4,115. If the undercover drivers' licenses
17 will be used for the investigation of a specific event rather than
18 for ongoing investigations, the agency shall designate on the form
19 an estimate of the length of time the undercover drivers' licenses
20 will be needed. The contact person in the agency shall sign the
21 form and verify the information contained in the form.

22 (3) Upon receipt of a completed form, the director shall
23 determine whether the undercover drivers' licenses will be used by
24 an approved agency for a legitimate purpose pursuant to subsection
25 (1) of this section. If the director determines that the undercover
26 drivers' licenses will be used for such a purpose, he or she may
27 issue the undercover drivers' licenses in the form and under the

1 conditions he or she determines to be necessary. The decision of
2 the director regarding issuance of undercover drivers' licenses is
3 final.

4 (4) The Department of Motor Vehicles shall keep records
5 pertaining to undercover drivers' licenses confidential, and such
6 records shall not be subject to public disclosure. Any person who
7 receives information pertaining to undercover drivers' licenses in
8 the course of his or her employment and who discloses any such
9 information to any unauthorized individual shall be guilty of a
10 Class III misdemeanor.

11 (5) The contact person shall return the undercover
12 drivers' licenses to the Department of Motor Vehicles if:

13 (a) The undercover drivers' licenses expire and are not
14 renewed;

15 (b) The purpose for which the undercover drivers'
16 licenses were issued has been completed or terminated;

17 (c) The persons for whom the undercover drivers' licenses
18 were issued cease to be employees of the agency; or

19 (d) The director requests their return.

20 Sec. 209. Section 60-493, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 60-493 When a person applies for an operator's license or
23 state identification card, the county treasurer or examiner of the
24 Department of Motor Vehicles shall distribute a brochure provided
25 by an organ and tissue procurement organization and approved by the
26 Department of Health and Human Services ~~Regulation and Licensure~~
27 containing a description and explanation of the Uniform Anatomical

1 Gift Act to each person applying for a new or renewal license or
2 card.

3 If an individual desires to receive additional specific
4 information regarding organ and tissue donation and the Donor
5 Registry of Nebraska as indicated on an application or examiner's
6 certificate under section 60-484, 60-4,144, or 60-4,181, the
7 department shall notify a representative of the federally
8 designated organ procurement organization in Nebraska within five
9 working days of the name and address of such individual.

10 Sec. 210. Section 60-4,118.02, Reissue Revised Statutes
11 of Nebraska, is amended to read:

12 60-4,118.02 (1) There is hereby created the Health
13 Advisory Board which shall consist of six health care providers
14 appointed by the director with the advice and recommendation of
15 the ~~Director of Regulation and Licensure~~ Department of Health
16 and Human Services. The members of the board shall consist of
17 one general practice physician, one physician engaged in the
18 practice of ophthalmology, one physician engaged in the practice
19 of orthopedic surgery, one physician engaged in the practice
20 of neurological medicine and surgery, one optometrist, and one
21 psychiatrist. Each member of the board shall be licensed to
22 practice his or her profession pursuant to the Uniform Licensing
23 Law.

24 (2) Of the initial members of the board, two shall be
25 appointed for four years, two shall be appointed for three years,
26 and two shall be appointed for two years. Thereafter, each member
27 shall be appointed for a term of four years and until a successor

1 is appointed and qualified. If a vacancy occurs for any reason
2 other than the expiration of a term, the Director of Motor Vehicles
3 may appoint a person licensed in the same type of professional
4 practice as the member being replaced to serve out the unexpired
5 term. Members of the board shall be reimbursed for their actual and
6 necessary expenses as provided in sections 81-1174 to 81-1177.

7 (3) The board shall meet as necessary at the call of the
8 director. At the initial meeting of the board following completion
9 of the initial appointments, the board shall select from among its
10 members a chairperson and shall designate any other officers or
11 committees as it deems necessary. The board may select officers and
12 committees annually or as necessary to fill vacancies and to carry
13 out duties of the board.

14 Sec. 211. Section 60-4,164.01, Reissue Revised Statutes
15 of Nebraska, is amended to read:

16 60-4,164.01 (1) Any physician, registered nurse, other
17 trained person employed by a licensed health care facility or
18 health care service defined in the Health Care Facility Licensure
19 Act, a clinical laboratory certified pursuant to the federal
20 Clinical Laboratories Improvement Act of 1967, as amended, or Title
21 XVIII or XIX of the federal Social Security Act, as amended, to
22 withdraw human blood for scientific or medical purposes, or a
23 hospital shall be an agent of the State of Nebraska when performing
24 the act of withdrawing blood at the request of a peace officer
25 pursuant to section 60-4,164. The state shall be liable in damages
26 for any illegal or negligent acts or omissions of such agents in
27 performing the act of withdrawing blood. The agent shall not be

1 individually liable in damages or otherwise for any act done or
2 omitted in performing the act of withdrawing blood at the request
3 of a peace officer pursuant to such section except for acts of
4 willful, wanton, or gross negligence of the agent or of persons
5 employed by such agent.

6 (2) Any person listed in subsection (1) of this section
7 withdrawing a blood specimen for purposes of section 60-4,164
8 shall, upon request, furnish to any law enforcement agency or the
9 person being tested a certificate stating that such specimen was
10 taken in a medically acceptable manner. The certificate shall be
11 signed under oath before a notary public and shall be admissible
12 in any proceeding as evidence of the statements contained in the
13 certificate. The form of the certificate shall be prescribed by the
14 Department of Health and Human Services ~~Regulation and Licensure~~
15 and such forms shall be made available to the persons listed in
16 subsection (1) of this section.

17 Sec. 212. Section 60-6,104, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 60-6,104 All samples and tests of body fluids under
20 sections 60-6,101 to 60-6,103 shall be submitted to and performed
21 by an individual possessing a valid permit issued by the Department
22 of Health and Human Services ~~Regulation and Licensure~~ for such
23 purpose. Such tests shall be performed according to methods
24 approved by the department. Such individual shall promptly perform
25 such analysis and report the results thereof to the official
26 submitting the sample.

27 Sec. 213. Section 60-6,107, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 60-6,107 (1) Except as provided in subsection (2) of this
3 section, the Department of Health and Human Services ~~Regulation~~
4 ~~and Licensure~~ shall adopt necessary rules and regulations for the
5 administration of the provisions of sections 60-6,101 to 60-6,106.

6 (2) The Department of Roads shall adopt and promulgate
7 rules and regulations which shall provide for the release and
8 disclosure of the results of tests conducted under sections
9 60-6,102 and 60-6,103.

10 Sec. 214. Section 60-6,201, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 60-6,201 (1) Any test made under section 60-6,197, if
13 made in conformity with the requirements of this section, shall
14 be competent evidence in any prosecution under a state statute
15 or city or village ordinance involving operating a motor vehicle
16 while under the influence of alcoholic liquor or drugs or involving
17 driving or being in actual physical control of a motor vehicle when
18 the concentration of alcohol in the blood or breath is in excess of
19 allowable levels.

20 (2) Any test made under section 60-6,211.02, if made
21 in conformity with the requirements of this section, shall be
22 competent evidence in any prosecution involving operating or being
23 in actual physical control of a motor vehicle in violation of
24 section 60-6,211.01.

25 (3) To be considered valid, tests of blood, breath, or
26 urine made under section 60-6,197 or tests of blood or breath made
27 under section 60-6,211.02 shall be performed according to methods

1 approved by the Department of Health and Human Services ~~Regulation~~
2 ~~and Licensure~~ and by an individual possessing a valid permit issued
3 by such department for such purpose, except that a physician,
4 registered nurse, or other trained person employed by a licensed
5 health care facility or health care service which is defined in the
6 Health Care Facility Licensure Act or clinical laboratory certified
7 pursuant to the federal Clinical Laboratories Improvement Act of
8 1967, as such act existed on September 1, 2001, or Title XVIII
9 or XIX of the federal Social Security Act, as such act existed
10 on September 1, 2001, to withdraw human blood for scientific or
11 medical purposes, acting at the request of a peace officer, may
12 withdraw blood for the purpose of a test to determine the alcohol
13 concentration or the presence of drugs and no permit from the
14 department shall be required for such person to withdraw blood
15 pursuant to such an order. The department may approve satisfactory
16 techniques or methods to perform such tests and may ascertain
17 the qualifications and competence of individuals to perform such
18 tests and issue permits which shall be subject to termination or
19 revocation at the discretion of the department.

20 (4) A permit fee may be established by regulation by the
21 department which shall not exceed the actual cost of processing
22 the initial permit. Such fee shall be charged annually to each
23 permitholder. The fees shall be used to defray the cost of
24 processing and issuing the permits and other expenses incurred by
25 the department in carrying out this section. The fee shall be
26 remitted to the State Treasurer for credit to the ~~Department of~~
27 ~~Health and Human Services Regulation and Licensure~~ Cash Fund Health

1 and Human Services Cash Fund as a laboratory service fee.

2 (5) Relevant evidence shall not be excluded in any
3 prosecution under a state statute or city or village ordinance
4 involving operating a motor vehicle while under the influence of
5 alcoholic liquor or drugs or involving driving or being in actual
6 physical control of a motor vehicle when the concentration of
7 alcohol in the blood or breath is in excess of allowable levels
8 on the ground that the evidence existed or was obtained outside of
9 this state.

10 Sec. 215. Section 60-6,202, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 60-6,202 (1) Any physician, registered nurse, other
13 trained person employed by a licensed health care facility or
14 health care service defined in the Health Care Facility Licensure
15 Act, a clinical laboratory certified pursuant to the federal
16 Clinical Laboratories Improvement Act of 1967, as amended, or Title
17 XVIII or XIX of the federal Social Security Act, as amended, to
18 withdraw human blood for scientific or medical purposes, or a
19 hospital shall be an agent of the State of Nebraska when performing
20 the act of withdrawing blood at the request of a peace officer
21 pursuant to sections 60-6,197 and 60-6,211.02. The state shall be
22 liable in damages for any illegal or negligent acts or omissions of
23 such agents in performing the act of withdrawing blood. The agent
24 shall not be individually liable in damages or otherwise for any
25 act done or omitted in performing the act of withdrawing blood at
26 the request of a peace officer pursuant to such sections except for
27 acts of willful, wanton, or gross negligence of the agent or of

1 persons employed by such agent.

2 (2) Any person listed in subsection (1) of this section
3 withdrawing a blood specimen for purposes of section 60-6,197 or
4 60-6,211.02 shall, upon request, furnish to any law enforcement
5 agency or the person being tested a certificate stating that
6 such specimen was taken in a medically acceptable manner. The
7 certificate shall be signed under oath before a notary public and
8 shall be admissible in any proceeding as evidence of the statements
9 contained in the certificate. The form of the certificate shall
10 be prescribed by the Department of Health and Human Services
11 ~~Regulation and Licensure~~ and such forms shall be made available to
12 the persons listed in subsection (1) of this section.

13 Sec. 216. Section 68-126, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 68-126 The ~~Director of Finance and Support~~ shall
16 ~~immediately~~ Department of Health and Human Services shall adopt and
17 promulgate rules and regulations establishing maximum payments for
18 all health services furnished to recipients of public assistance.
19 Each county shall, not later than December 31, 1984, establish
20 a standard of need for medical services furnished, pursuant to
21 section 68-104, by the counties to indigent persons who are not
22 eligible for other medical assistance programs. This standard shall
23 not exceed the Office of Management and Budget income poverty
24 guidelines.

25 Sec. 217. Section 68-129, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 68-129 The ~~Director~~ Department of Health and Human

1 Services shall, by rule and regulation, when determining need
2 for public assistance on the basis of available resources, exclude
3 from the definition of available resources of an applicant for
4 assistance either the funds deposited in an irrevocable trust fund
5 created pursuant to section 12-1106 or up to four thousand dollars,
6 increased annually as provided in this section, of the amount paid
7 for a policy of insurance the proceeds of which are specifically
8 and irrevocably designated, assigned, or pledged for the payment
9 of the applicant's burial expenses. The Department of Health and
10 Human Services shall increase such amount annually on September
11 1 beginning with the year 2006 by the percentage change in the
12 Consumer Price Index for All Urban Consumers published by the
13 Federal Bureau of Labor Statistics at the close of the twelve-month
14 period ending on August 31 of such year. This section shall not
15 preclude the eligibility for assistance of an applicant who has
16 purchased such a policy of insurance prior to July 9, 1988, unless
17 such applicant is subject to subdivision (3) of section 68-1002.

18 Sec. 218. Section 68-130, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 68-130 Counties shall maintain, at no additional cost to
21 the Department of Health and Human Services, ~~Finance and Support,~~
22 office and service facilities used for the administration of the
23 public assistance programs as such facilities existed on April 1,
24 1983.

25 Sec. 219. Section 68-309, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 68-309 The Department of Health and Human Services

1 ~~Finance and Support~~ shall be the sole agency of the State of
2 Nebraska to administer the State Assistance Fund for assistance
3 to the aged, blind, or disabled, aid to dependent children,
4 medical assistance, medically handicapped children's services,
5 child welfare services, and such other assistance and services
6 as may be made available to the State of Nebraska by the government
7 of the United States.

8 Sec. 220. Section 68-312, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 68-312 The Department of Health and Human Services, ~~the~~
11 ~~Department of Health and Human Services Regulation and Licensure,~~
12 ~~and the Department of Health and Human Services Finance and Support~~
13 ~~shall have~~ has the power to establish and enforce reasonable rules
14 and regulations governing the custody, use, and preservation of the
15 records, papers, files, and communications of the state. The use of
16 such records, papers, files, and communications by any other agency
17 or department of government to which they may be furnished shall be
18 limited to the purposes for which they are furnished.

19 Sec. 221. Section 68-313, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 68-313 It shall be unlawful, except as permitted by
22 section 68-313.01 and except for purposes directly connected with
23 the administration of general assistance, medically handicapped
24 children's services, medical assistance, assistance to the aged,
25 blind, or disabled, or aid to dependent children, and in accordance
26 with the rules and regulations of the Department of Health and
27 Human Services, ~~the Department of Health and Human Services~~

1 ~~Regulation and Licensure~~, and the Department of Health and
2 ~~Human Services Finance and Support~~, for any person or persons
3 to solicit, disclose, receive, make use of, authorize, knowingly
4 permit, participate in, or acquiesce in the use of, any list of
5 or names of, any information concerning, or persons applying for
6 or receiving such aid or assistance, directly or indirectly derived
7 from the records, papers, files, or communications of the state, or
8 subdivisions or agencies thereof, or acquired in the course of the
9 performance of official duties.

10 Sec. 222. Section 68-703.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 68-703.01 The Department of Health and Human Services,
13 ~~the Department of Health and Human Services Regulation and~~
14 ~~Licensure~~, and the Department of Health and Human Services Finance
15 ~~and Support shall have has the authority to use any funds which may~~
16 be made available through an agency of the government of the United
17 States to reimburse any county of this state, either in whole or in
18 part, for the following expenditures: (1) Employment of staff whose
19 duties involve the giving or strengthening of services to children,
20 (2) the return of any nonresident child to his or her place of
21 residence when such child shall be found in the county, and (3) the
22 temporary cost of board and care of a needy child who by necessity
23 requires care in a foster home.

24 Sec. 223. Section 68-716, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 68-716 An application for medical assistance shall give a
27 right of subrogation to the Department of Health and Human Services

1 ~~Finance and Support~~ or its assigns. Subject to sections 68-921 to
2 68-925, subrogation shall include every claim or right which the
3 applicant may have against a third party when such right or claim
4 involves money for medical care. The third party shall be liable to
5 make payments directly to the department or its assigns as soon as
6 he or she is notified in writing of the valid claim for subrogation
7 under this section.

8 Sec. 224. Section 68-717, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 68-717 The Department of Health and Human Services
11 and the Department of Health and Human Services Finance and
12 ~~Support~~ shall assume the responsibility for all public assistance,
13 including aid to families with dependent children, emergency
14 assistance, assistance to the aged, blind, or disabled, medically
15 handicapped children's services, commodities, food stamps, and
16 medical assistance.

17 Sec. 225. Section 68-718, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 68-718 All furniture, equipment, books, files, records,
20 and personnel utilized by the county divisions or boards of public
21 welfare for the administration of public assistance programs shall
22 be transferred and delivered to the Department of Health and Human
23 Services. ~~Finance and Support.~~ The transferred employees shall
24 not lose any accrued benefits or status due to the transfer and
25 shall receive the same benefits as other state employees, including
26 participation in the State Employees Retirement Fund.

27 Sec. 226. Section 68-907, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 68-907 For purposes of the Medical Assistance Act:

3 (1) Committee means the Health and Human Services
4 Committee of the Legislature;

5 (2) Department means the Department of Health and Human
6 Services; ~~Finance and Support;~~

7 ~~(3) Director means the Director of Finance and Support;~~

8 ~~(4)~~ (3) Medicaid Reform Plan means the Medicaid Reform
9 Plan submitted on December 1, 2005, pursuant to the Medicaid Reform
10 Act enacted pursuant to Laws 2005, LB 709;

11 ~~(5)~~ (4) Medicaid state plan means the comprehensive
12 written document, developed and amended by the department and
13 approved by the federal Centers for Medicare and Medicaid Services,
14 which describes the nature and scope of the medical assistance
15 program and provides assurances that the department will administer
16 the program in compliance with federal requirements;

17 ~~(6)~~ (5) Provider means a person providing health care or
18 related services under the medical assistance program; and

19 ~~(7)~~ (6) Waiver means the waiver of applicability to
20 the state of one or more provisions of federal law relating to
21 the medical assistance program based on an application by the
22 department and approval of such application by the federal Centers
23 for Medicare and Medicaid Services.

24 Sec. 227. Section 68-908, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 68-908 (1) The department shall administer the medical
27 assistance program.

1 (2) The department may (a) enter into contracts and
2 interagency agreements, (b) adopt and promulgate rules and
3 regulations, (c) adopt fee schedules, (d) apply for and implement
4 waivers and managed care plans for eligible recipients, and (e)
5 perform such other activities as necessary and appropriate to carry
6 out its duties under the Medical Assistance Act.

7 (3) The department shall maintain the confidentiality
8 of information regarding applicants for or recipients of medical
9 assistance and such information shall only be used for purposes
10 related to administration of the medical assistance program and the
11 provision of such assistance or as otherwise permitted by federal
12 law.

13 (4)(a) The department shall prepare a biennial summary
14 and analysis of the medical assistance program for legislative
15 and public review, including, but not limited to, a description
16 of eligible recipients, covered services, provider reimbursement,
17 program trends and projections, program budget and expenditures,
18 the status of implementation of the Medicaid Reform Plan, and
19 recommendations for program changes.

20 (b) The department shall provide a draft report of such
21 summary and analysis to the Medicaid Reform Council no later than
22 October 1 of each even-numbered year. The council shall conduct a
23 public meeting no later than October 15 of such year to discuss
24 and receive public comment regarding such report. The council shall
25 provide any comments and recommendations regarding such report in
26 writing to the ~~director~~ department and the committee no later than
27 November 1 of such year. The department shall submit a final report

1 of such summary and analysis to the Governor, the Legislature, and
2 the council no later than December 1 of such year.

3 Sec. 228. Section 68-913, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 68-913 (1) Each public school district shall annually,
6 at the beginning of the school year, provide written information
7 supplied by the ~~Department of Health and Human Services and~~
8 ~~the Department of Health and Human Services Finance and Support~~
9 department to every student describing the availability of
10 children's health services provided under the medical assistance
11 program.

12 (2) Each hospital shall provide the mother of every
13 child born in such hospital, at the time of such birth, written
14 information provided by the ~~departments~~ department describing the
15 availability of children's health services provided under the
16 medical assistance program.

17 (3) The ~~departments~~ department shall develop and
18 implement other activities designed to increase public awareness of
19 the availability of children's health services provided under the
20 medical assistance program. Such activities shall include materials
21 and efforts designed to increase participation in the program by
22 minority populations.

23 Sec. 229. Section 68-915, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 68-915 The following persons shall be eligible for
26 medical assistance:

27 (1) Dependent children as defined in section 43-504;

1 (2) Aged, blind, and disabled persons as defined in
2 sections 68-1002 to 68-1005;

3 (3) Children under nineteen years of age who are eligible
4 under section 1905(a)(i) of the federal Social Security Act;

5 (4) Persons who are presumptively eligible as allowed
6 under sections 1920 and 1920B of the federal Social Security Act;

7 (5) Children under nineteen years of age and pregnant
8 women with a family income equal to or less than one hundred
9 eighty-five percent of the Office of Management and Budget income
10 poverty guideline, as allowed under Title XIX and Title XXI of the
11 federal Social Security Act, without regard to resources. Children
12 described in this subdivision and subdivision (6) of this section
13 shall remain eligible for six consecutive months from the date of
14 initial eligibility prior to redetermination of eligibility. The
15 department may review eligibility monthly thereafter pursuant to
16 rules and regulations adopted and promulgated by the department.
17 The department may determine upon such review that a child is
18 ineligible for medical assistance if such child no longer meets
19 eligibility standards established by the department;

20 (6) For purposes of Title XIX of the federal Social
21 Security Act as provided in subdivision (5) of this section,
22 children with a family income as follows:

23 (a) Equal to or less than one hundred fifty percent of
24 the Office of Management and Budget income poverty guideline with
25 eligible children one year of age or younger;

26 (b) Equal to or less than one hundred thirty-three
27 percent of the Office of Management and Budget income poverty

1 guideline with eligible children over one year of age and under six
2 years of age; or

3 (c) Equal to or less than one hundred percent of the
4 Office of Management and Budget income poverty guideline with
5 eligible children six years of age or older and less than nineteen
6 years of age;

7 (7) Persons who are medically needy caretaker relatives
8 as allowed under 42 U.S.C. 1396d(a)(ii);

9 (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),
10 disabled persons as defined in section 68-1005 with a family income
11 of less than two hundred fifty percent of the Office of Management
12 and Budget income poverty guideline and who, but for earnings in
13 excess of the limit established under 42 U.S.C. 1396d(q)(2)(B),
14 would be considered to be receiving federal Supplemental Security
15 Income. ~~The Department of Health and Human Services~~ department
16 shall apply for a waiver to disregard any unearned income that is
17 contingent upon a trial work period in applying the Supplemental
18 Security Income standard. Such disabled persons shall be subject to
19 payment of premiums as a percentage of family income beginning at
20 not less than two hundred percent of the Office of Management and
21 Budget income poverty guideline. Such premiums shall be graduated
22 based on family income and shall not be less than two percent or
23 more than ten percent of family income; and

24 (9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),
25 persons who:

26 (a) Have been screened for breast and cervical cancer
27 under the Centers for Disease Control and Prevention breast and

1 cervical cancer early detection program established under Title XV
2 of the federal Public Health Service Act, 42 U.S.C. 300k et seq.,
3 in accordance with the requirements of section 1504 of such act, 42
4 U.S.C. 300n, and who need treatment for breast or cervical cancer,
5 including precancerous and cancerous conditions of the breast or
6 cervix;

7 (b) Are not otherwise covered under creditable coverage
8 as defined in section 2701(c) of the federal Public Health Service
9 Act, 42 U.S.C. 300gg(c);

10 (c) Have not attained sixty-five years of age; and

11 (d) Are not eligible for medical assistance under any
12 mandatory categorically needy eligibility group.

13 Eligibility shall be determined under this section
14 using an income budgetary methodology that determines children's
15 eligibility at no greater than one hundred eighty-five percent of
16 the Office of Management and Budget income poverty guideline and
17 adult eligibility using adult income standards no greater than the
18 applicable categorical eligibility standards established pursuant
19 to state or federal law. The department shall determine eligibility
20 under this section pursuant to such income budgetary methodology
21 and subdivision (1)(s) of section 68-1713.

22 Sec. 230. Section 68-921, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 68-921 For purposes of sections 68-921 to 68-925:

25 (1) Assets means property which is not exempt from
26 consideration in determining eligibility for medical assistance
27 under rules and regulations adopted and promulgated under section

1 68-922;

2 (2) Community spouse monthly income allowance means the
3 amount of income determined by the ~~Department of Health and Human~~
4 ~~Services~~ department in accordance with section 1924 of the federal
5 Social Security Act, as amended, Public Law 100-360, 42 U.S.C.
6 1396r-5;

7 (3) Community spouse resource allowance means the amount
8 of assets determined in accordance with section 1924 of the federal
9 Social Security Act, as amended, Public Law 100-360, 42 U.S.C.
10 1396r-5. For purposes of 42 U.S.C. 1396r-5(f)(2)(A)(i), the amount
11 specified by the state shall be twelve thousand dollars;

12 (4) Home and community-based services means services
13 furnished under home and community-based waivers as defined in
14 Title XIX of the federal Social Security Act, as amended, 42 U.S.C.
15 1396;

16 (5) Qualified applicant means a person (a) who applies
17 for medical assistance on or after July 9, 1988, (b) who is
18 under care in a state-licensed hospital, skilled nursing facility,
19 intermediate care facility, intermediate care facility for the
20 mentally retarded, nursing facility, assisted-living facility, or
21 center for the developmentally disabled, as such terms are defined
22 in the Health Care Facility Licensure Act, or an adult family home
23 certified by the ~~Department of Health and Human Services~~ department
24 or is receiving home and community-based services, and (c) whose
25 spouse is not under such care or receiving such services and is not
26 applying for or receiving medical assistance;

27 (6) Qualified recipient means a person (a) who has

1 applied for medical assistance before July 9, 1988, and is eligible
2 for such assistance, (b) who is under care in a facility certified
3 to receive medical assistance funds or is receiving home and
4 community-based services, and (c) whose spouse is not under such
5 care or receiving such services and is not applying for or
6 receiving medical assistance; and

7 (7) Spouse means the spouse of a qualified applicant or
8 qualified recipient.

9 Sec. 231. Section 68-922, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 68-922 For purposes of determining medical assistance
12 eligibility and the right to and obligation of medical support
13 pursuant to sections 68-716, 68-915, and 68-916, a spouse may
14 retain (1) assets equivalent to the community spouse resource
15 allowance and (2) an amount of income equivalent to the community
16 spouse monthly income allowance.

17 ~~The Department of Health and Human Services~~ department
18 shall administer this section in accordance with section 1924 of
19 the Social Security Act, as amended, Public Law 100-360, 42 U.S.C.
20 1396r-5, and shall adopt and promulgate rules and regulations as
21 necessary to implement and enforce sections 68-921 to 68-925.

22 Sec. 232. Section 68-923, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 68-923 If a portion of the aggregate assets is designated
25 in accordance with section 68-924:

26 (1) Only the assets not designated for the spouse shall
27 be considered in determining the eligibility of an applicant for

1 medical assistance;

2 (2) In determining the eligibility of an applicant, the
3 assets designated for the spouse shall not be taken into account
4 and proof of adequate consideration for any assignment or transfer
5 made as a result of the designation of assets shall not be
6 required;

7 (3) The assets designated for the spouse shall not be
8 considered to be available to an applicant or recipient for future
9 medical support and the spouse shall have no duty of future medical
10 support of the applicant or recipient from such assets;

11 (4) Recovery may not be made from the assets designated
12 for the spouse for any amount paid for future medical assistance
13 provided to the applicant or recipient; and

14 (5) Neither the ~~Director of Health and Human Services~~
15 department nor the state shall be subrogated to or assigned any
16 future right of the applicant or recipient to medical support from
17 the assets designated for the spouse.

18 Sec. 233. Section 68-924, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 68-924 A designation of assets pursuant to section 68-922
21 shall be evidenced by a written statement listing such assets and
22 signed by the spouse. A copy of such statement shall be provided
23 to the ~~Director of Health and Human Services~~ department at the
24 time of application and shall designate assets owned as of the date
25 of application. Failure to complete any assignments or transfers
26 necessary to place the designated assets in sole ownership of the
27 spouse within a reasonable time after the statement is signed as

1 provided in rules and regulations adopted and promulgated under
2 section 68-922 may render the applicant or recipient ineligible for
3 assistance in accordance with such rules and regulations.

4 Sec. 234. Section 68-925, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 68-925 ~~The Department of Health and Human Services~~
7 department shall furnish to each qualified applicant for and
8 each qualified recipient of medical assistance a clear and simple
9 written statement explaining the provisions of section 68-922.

10 Sec. 235. Section 68-926, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 68-926 The Legislature finds that (1) the ~~Department~~
13 ~~of Health and Human Services and the Department of Health and~~
14 ~~Human Services Finance and Support~~ department ~~relies~~ on
15 health insurance and claims information from private insurers to
16 ensure accuracy in processing state benefit program payments to
17 providers and in verifying individual recipients' eligibility, (2)
18 delay or refusal to provide such information causes unnecessary
19 expenditures of state funds, (3) disclosure of such information
20 to the ~~Department of Health and Human Services and the Department~~
21 ~~of Health and Human Services Finance and Support~~ department is
22 permitted pursuant to the federal Health Insurance Portability and
23 Accountability privacy rules under 45 C.F.R. part 164, and (4) for
24 medical assistance program recipients who also have other insurance
25 coverage, including coverage by licensed and self-funded insurers,
26 the ~~Department of Health and Human Services Finance and Support~~
27 department is required by 42 U.S.C. 1396a(a)(25) to assure that

1 licensed and self-funded insurers coordinate benefits with the
2 program.

3 Sec. 236. Section 68-927, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 68-927 For purposes of sections 68-926 to 68-933:

6 (1) Coordinate benefits means:

7 (a) Provide to the ~~Department of Health and Human~~
8 ~~Services or the Department of Health and Human Services Finance and~~
9 ~~Support~~ department information regarding the licensed insurer's or
10 self-funded insurer's existing coverage for an individual who is
11 eligible for a state benefit program; and

12 (b) Meet payment obligations;

13 (2) Coverage information means health information
14 possessed by a licensed insurer or self-funded insurer that is
15 limited to the following information about an individual:

16 (a) Eligibility for coverage under a health plan;

17 (b) Coverage of health care under the health plan; or

18 (c) Benefits and payments associated with the health
19 plan;

20 (3) Health plan means any policy of insurance issued
21 by a licensed insurer or any employee benefit plan offered by a
22 self-funded insurer that provides for payment to or on behalf of
23 an individual as a result of an illness, disability, or injury or
24 change in a health condition;

25 (4) Individual means a person covered by a state benefit
26 program, including the medical assistance program, or a person
27 applying for such coverage;

1 (5) Licensed insurer means any insurer, except a
2 self-funded insurer, including a fraternal benefit society,
3 producer, or other person licensed or required to be licensed,
4 authorized or required to be authorized, or registered or required
5 to be registered pursuant to the insurance laws of the state; and

6 (6) Self-funded insurer means any employer or union who
7 or which provides a self-funded employee benefit plan.

8 Sec. 237. Section 68-928, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 68-928 (1) Except as provided in subsection (2) of this
11 section, at the request of the ~~Department of Health and Human~~
12 ~~Services or the Department of Health and Human Services Finance and~~
13 ~~Support, department,~~ department, a licensed insurer or a self-funded insurer
14 shall provide coverage information to the ~~requesting~~ department
15 without an individual's authorization for purposes of:

16 (a) Determining an individual's eligibility for state
17 benefit programs, including the medical assistance program; or

18 (b) Coordinating benefits with state benefit programs.

19 Such information shall be provided within thirty days
20 after the date of request unless good cause is shown. Requests for
21 coverage information shall specify individual recipients for whom
22 information is being requested.

23 (2) (a) Coverage information requested pursuant to
24 subsection (1) of this section regarding a limited benefit policy
25 shall be limited to whether a specified individual has coverage
26 and, if so, a description of that coverage, and such information
27 shall be used solely for the purposes of subdivision (1) (a) of this

1 section.

2 (b) For purposes of this section, limited benefit policy
3 means a policy of insurance issued by a licensed insurer that
4 consists only of one or more, or any combination of the following:

5 (i) Coverage only for accident or disability income
6 insurance, or any combination thereof;

7 (ii) Coverage for specified disease or illness; or

8 (iii) Hospital indemnity or other fixed indemnity
9 insurance.

10 Sec. 238. Section 68-930, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 68-930 The Department of Health and Human Services
13 Finance and Support department may impose and collect a civil
14 penalty on a self-funded insurer who violates the requirements
15 of section 68-928 if the department finds that the self-funded
16 insurer:

17 (1) Committed the violation flagrantly and in conscious
18 disregard of the requirements; or

19 (2) Has committed violations with such frequency as to
20 indicate a general business practice to engage in that type of
21 conduct.

22 The civil penalty shall not be more than one thousand
23 dollars for each violation, not to exceed an aggregate penalty of
24 thirty thousand dollars, unless the violation by the self-funded
25 insurer was committed flagrantly and in conscious disregard of
26 section 68-928, in which case the penalty shall not be more than
27 fifteen thousand dollars for each violation, not to exceed an

1 aggregate penalty of one hundred fifty thousand dollars.

2 Sec. 239. Section 68-931, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 68-931 The ~~Department of Health and Human Services~~
5 ~~Finance and Support~~ department is authorized to recover all amounts
6 paid or to be paid to state benefit programs as a result of failure
7 to coordinate benefits by a licensed insurer or a self-funded
8 insurer.

9 Sec. 240. Section 68-932, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 68-932 The ~~Department of Health and Human Services~~
12 ~~Finance and Support~~ department shall establish a process by
13 rule and regulation for resolving any violation by a self-funded
14 insurer of section 68-928 and for assessing the financial penalties
15 contained in section 68-930. Any appeal of an action by the
16 department under such policies shall be in accordance with the
17 Administrative Procedure Act.

18 Sec. 241. Section 68-940, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 68-940 (1) In determining the amount of any penalties or
21 damages awarded under the False Medicaid Claims Act, the following
22 shall be taken into account:

23 (a) The nature of claims and the circumstances under
24 which they were presented;

25 (b) The degree of culpability and history of prior
26 offenses of the person presenting the claims;

27 (c) Coordination of the total penalties and damages

1 arising from the same claims, goods, or services, whether based on
2 state or federal statute; and

3 (d) Such other matters as justice requires.

4 (2) (a) Any person who presents a false medicaid claim is
5 subject to civil liability as provided in section 68-936, except
6 when the court finds that:

7 (i) The person committing the violation of the False
8 Medicaid Claims Act furnished officials of the state responsible
9 for investigating violations of the act with all information known
10 to such person about the violation within thirty days after the
11 date on which the defendant first obtained the information;

12 (ii) Such person fully cooperated with any state
13 investigation of such violation; and

14 (iii) At the time such person furnished the state with
15 the information about the violation, no criminal prosecution, civil
16 action, or administrative action had commenced under the act with
17 respect to such violation and the person did not have actual
18 knowledge of the existence of an investigation into such violation.

19 (b) The court may assess not more than two times the
20 amount of the false medicaid claims submitted because of the action
21 of a person coming within the exception under subdivision (2) (a)
22 of this section, and such person is also liable for the state's
23 costs and attorney's fees for a civil action brought to recover any
24 penalty or damages.

25 (3) Amounts recovered under the False Medicaid Claims
26 Act shall be remitted to the State Treasurer for credit to the
27 ~~Department of Health and Human Services~~ Cash Fund, except that the

1 State Treasurer shall distribute civil penalties in accordance with
2 Article VII, section 5, of the Constitution of Nebraska.

3 Sec. 242. Section 68-1001.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 68-1001.01 For the purpose of adding to the security and
6 social adjustment of former and potential recipients of assistance
7 to the aged, blind, and disabled, and of medical assistance, the
8 ~~Director~~ Department of Health and Human Services is authorized to
9 promulgate rules and regulations providing for services to such
10 persons.

11 Sec. 243. Section 68-1002, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 68-1002 In order to qualify for assistance to the aged,
14 blind, or disabled, an individual:

15 (1) Must be a bona fide resident of the State of
16 Nebraska, except that a resident of another state who enters the
17 State of Nebraska solely for the purpose of receiving care in
18 a home licensed by the Department of Health and Human Services
19 ~~Regulation and Licensure~~ shall not be deemed to be a bona fide
20 resident of Nebraska while such care is being provided;

21 (2) ~~Is not~~ Shall not be receiving care or services as an
22 inmate of a public institution, except as a patient in a medical
23 institution, and if the individual is a patient in an institution
24 for tuberculosis or mental diseases, he or she has attained the age
25 of sixty-five years;

26 (3) ~~Has not~~ Shall not have deprived himself or herself
27 directly or indirectly of any property whatsoever for the purpose

1 of qualifying for assistance to the aged, blind, or disabled;

2 (4) May receive care in a public or private institution
3 only if such institution is subject to a state authority or
4 authorities which shall be responsible for establishing and
5 maintaining standards for such institutions; and

6 (5) Must be in need of shelter, maintenance, or medical
7 care.

8 Sec. 244. Section 68-1007, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 68-1007 In determining need for assistance to the aged,
11 blind, or disabled, the ~~Director~~ Department of Health and Human
12 Services shall take into consideration all other income and
13 resources of the individual claiming such assistance, as well
14 as any expenses reasonably attributable to the earning of any such
15 income, except as otherwise provided in this section. In making
16 such determination with respect to any individual who is blind,
17 there shall be disregarded the first eighty-five dollars per month
18 of earned income plus one-half of earned income in excess of
19 eighty-five dollars per month and, for a period not in excess
20 of twelve months, such additional amounts of other income and
21 resources, in the case of an individual who has an approved plan
22 for achieving self-support, as may be necessary for the fulfillment
23 of such plan. In making such determination with respect to an
24 individual who has attained age sixty-five, or who is permanently
25 and totally disabled, and is claiming aid to the aged, blind,
26 or disabled, the ~~Director of Health and Human Services~~ department
27 shall disregard earned income at least to the extent such income

1 was disregarded on January 1, 1972, as provided in 42 U.S.C.
2 1396a(f).

3 Sec. 245. Section 68-1008, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 68-1008 Upon the filing of an application for assistance
6 to the aged, blind, or disabled, the Department of Health and Human
7 Services, ~~the Department of Health and Human Services Regulation~~
8 ~~and Licensure,~~ and the Department of Health and Human Services
9 Finance and Support shall make such investigation as it deems
10 necessary to determine the circumstances existing in each case.
11 Each applicant and recipient shall be notified in writing as to (1)
12 the approval or disapproval of any application, (2) the amount of
13 payments awarded, (3) any change in the amount of payments awarded,
14 and (4) the discontinuance of payments.

15 Sec. 246. Section 68-1014, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 68-1014 If any guardian or conservator shall have been
18 appointed to take charge of the property of any recipient of
19 assistance to the aged, blind, or disabled, aid to dependent
20 children, or medical assistance, such assistance payments shall be
21 made to the guardian or conservator upon his or her filing with the
22 ~~Director~~ Department of Health and Human Services a certified copy
23 of his or her letters of guardianship or conservatorship.

24 Sec. 247. Section 68-1015, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 68-1015 For the purpose of any investigation or hearing,
27 the ~~Director of Health and Human Services,~~ the Director of

1 ~~Regulation and Licensure, and the Director of Finance and Support,~~
2 chief executive officer of the Department of Health and Human
3 Services and the division directors appointed pursuant to section
4 6 of this act, through his ~~or her~~ authorized agents, shall have
5 the power to compel, by subpoena, the attendance and testimony of
6 witnesses and the production of books and papers. Witnesses may be
7 examined on oath or affirmation.

8 Sec. 248. Section 68-1016, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 68-1016 The ~~Director of Health and Human Services~~ chief
11 executive officer of the Department of Health and Human Services,
12 or his or her designated representative, shall provide for granting
13 an opportunity for a fair hearing before the ~~Department of Health~~
14 ~~and Human Services~~ to any individual whose claim for assistance to
15 the aged, blind, or disabled, aid to dependent children, emergency
16 assistance, medical assistance, commodities, or food stamp benefits
17 is denied, is not granted in full, or is not acted upon with
18 reasonable promptness. An appeal shall be taken by filing with the
19 ~~director~~ department a written notice of appeal setting forth the
20 facts on which the appeal is based. The ~~director~~ department shall
21 thereupon, in writing, notify the appellant of the time and place
22 for hearing which shall be not less than one week nor more than six
23 weeks from the date of such notice. Hearings shall be before the
24 ~~director or his or her~~ duly authorized agent of the department. On
25 the basis of evidence adduced, the ~~director~~ duly authorized agent
26 shall enter a final order on such appeal, which order shall be
27 transmitted to the appellant.

1 Sec. 249. Section 68-1017, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 68-1017 Any person, including vendors and providers
4 of medical assistance and social services, who, by means of a
5 willfully false statement or representation, or by impersonation
6 or other device, obtains or attempts to obtain, or aids or abets
7 any person to obtain or to attempt to obtain (1) an assistance
8 certificate of award to which he or she is not entitled, (2) any
9 commodity, any foodstuff, any food coupon, any food stamp coupon,
10 electronic benefit, or electronic benefit card, or any payment to
11 which such individual is not entitled or a larger payment than
12 that to which he or she is entitled, (3) any payment made on
13 behalf of a recipient of medical assistance or social services,
14 or (4) any other benefit administered by the Department of Health
15 and Human Services, ~~or the Department of Health and Human Services~~
16 ~~Finance and Support~~, or who violates any statutory provision
17 relating to assistance to the aged, blind, or disabled, aid to
18 dependent children, social services, or medical assistance, commits
19 an offense and shall upon conviction be punished as follows: (a)
20 If the aggregate value of all funds or other benefits obtained or
21 attempted to be obtained is less than five hundred dollars, the
22 person so convicted shall be guilty of a Class III misdemeanor; or
23 (b) if the aggregate value of all funds and other benefits obtained
24 or attempted to be obtained is five hundred dollars or more, the
25 person so convicted shall be guilty of a Class IV felony.

26 Sec. 250. Section 68-1095.01, Revised Statutes Cumulative
27 Supplement, 2006, is amended to read:

1 68-1095.01 The Long-Term Care Partnership Program is
2 established. The program shall be administered by the Department of
3 Health and Human Services ~~Finance and Support~~ in accordance with
4 federal requirements on state long-term care partnership programs.
5 In order to implement the program, the department shall file a
6 state plan amendment with the federal Centers for Medicare and
7 Medicaid Services pursuant to the requirements set forth in 42
8 U.S.C. 1396p(b), as such section existed on March 1, 2006.

9 Sec. 251. Section 68-1101, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 68-1101 The Department of Health and Human Services
12 Division of Medicaid and Long-Term Care Advisory Committee on Aging
13 is created. The committee shall consist of twelve members, one
14 from each of the planning-and-service areas as designated in the
15 Nebraska Community Aging Services Act and the remaining members
16 from the state at large.

17 Any member serving on the ~~Department on Aging~~ Department
18 of Health and Human Services Advisory Committee on Aging on January
19 1, 1997, July 1, 2007, shall continue to serve until his or her
20 term expires. As the terms of the members expire, the Governor
21 shall, on or before March 1 of such year, appoint or reappoint
22 a member of the committee for a term of four years. Each area
23 agency on aging serving a designated planning-and-service area
24 shall recommend to the Governor the names of persons qualified to
25 represent the senior population of the planning-and-service area.
26 Any vacancy on the committee shall be filled for the unexpired
27 term. A vacancy shall exist when a member of the committee ceases

1 to be a resident of the planning-and-service area from which he
2 or she was appointed or reappointed. The members to be appointed
3 to represent a planning-and-service area shall be residents of the
4 planning-and-service area from which they are appointed. Members
5 of the advisory committee shall not be elected public officials or
6 staff of the Department of Health and Human Services or of an area
7 agency on aging.

8 Sec. 252. Section 68-1103, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 68-1103 Members of the ~~Department of Health and Human~~
11 Services Division of Medicaid and Long-Term Care Advisory Committee
12 on Aging shall meet within thirty days after their appointment
13 to select from the members of the committee a chairperson, and
14 such other officers as committee members deem necessary, who shall
15 serve for a period of two years. The committee shall elect a new
16 chairperson every two years thereafter. The committee shall meet
17 at regular intervals at least once each year and may hold special
18 meetings at the call of the chairperson or at the request of a
19 majority of the members of the committee. The committee shall meet
20 at the seat of government or such other place as the members of the
21 committee may designate.

22 Sec. 253. Section 68-1104, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 68-1104 The ~~Department of Health and Human Services~~
25 Division of Medicaid and Long-Term Care Advisory Committee on Aging
26 shall advise the Division of Medicaid and Long-Term Care of the
27 Department of Health and Human Services regarding:

1 (1) The collection of facts and statistics and special
2 studies of conditions and problems pertaining to the employment,
3 health, financial status, recreation, social adjustment, or other
4 conditions and problems pertaining to the general welfare of the
5 aging of the state;

6 (2) Recommendations to state and local agencies serving
7 the aging for purposes of coordinating such agencies' activities,
8 and reports from the various state agencies and institutions on
9 matters within the jurisdiction of the committee;

10 (3) The latest developments of research, studies, and
11 programs being conducted throughout the nation on the problems and
12 needs of the aging;

13 (4) The mutual exchange of ideas and information on the
14 aging between federal, state, and local governmental agencies,
15 private organizations, and individuals; and

16 (5) Cooperation with agencies, federal, state, and
17 local or private organizations, in administering and supervising
18 demonstration programs of services for aging designed to foster
19 continued participation of older people in family and community
20 life and to prevent insofar as possible the onset of dependency and
21 the need for long-term institutional care.

22 The committee shall have the power to create special
23 committees to undertake such special studies as members of the
24 committee shall authorize and may include noncommittee members who
25 are qualified in any field of activity related to the general
26 welfare of the aging in the membership of such committees.

27 Sec. 254. Section 68-1105, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 68-1105 The members of the ~~Department of Health and~~
3 ~~Human Services~~ Division of Medicaid and Long-Term Care Advisory
4 Committee on Aging, and noncommittee members serving on special
5 committees, shall receive no compensation for their services other
6 than reimbursement for actual and necessary expenses as provided
7 in sections 81-1174 to 81-1177. Committee expenses and any office
8 expenses shall be paid from funds made available to the committee
9 by the Legislature.

10 Sec. 255. Section 68-1204, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 68-1204 (1) For the purpose of providing or purchasing
13 social services described in section 68-1202, the state hereby
14 accepts and assents to all applicable provisions of the federal
15 Social Security Act, as such act existed on July 1, 2006. The
16 ~~Director of Health and Human Services and the Director of Finance~~
17 ~~and Support~~ Department of Health and Human Services may each adopt
18 and promulgate rules and regulations, enter into agreements, and
19 adopt fee schedules with regard to social services described in
20 section 68-1202.

21 (2) The ~~Department of Health and Human Services~~
22 department shall adopt and promulgate rules and regulations to
23 administer funds under Title XX of the federal Social Security Act,
24 as such title existed on July 1, 2006, designated for specialized
25 developmental disability services.

26 Sec. 256. Section 68-1205, Revised Statutes Cumulative
27 Supplement, 2006, is amended to read:

1 68-1205 The matching funds required to obtain the federal
2 share of the services described in section 68-1202 may come from
3 either state, county, or donated sources in amounts and other
4 provisions to be determined by the ~~Director of Health and Human~~
5 ~~Services or the Director of Finance and Support~~ Department of
6 Health and Human Services.

7 Sec. 257. Section 68-1206, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 68-1206 (1) ~~The Director of Health and Human Services~~
10 ~~and the Director of Finance and Support~~ Department of Health and
11 Human Services shall administer the program of social services
12 in this state. ~~The Department of Health and Human Services and~~
13 ~~the Department of Health and Human Services Finance and Support~~
14 department may contract with other social agencies for the purchase
15 of social services at rates not to exceed those prevailing in
16 the state or the cost at which the ~~departments~~ department could
17 provide those services. The statutory maximum payments for the
18 separate program of aid to dependent children shall apply only to
19 public assistance grants and shall not apply to payments for social
20 services.

21 (2) In determining the rate or rates to be paid by the
22 ~~Department of Health and Human Services~~ department for child care
23 as defined in section 43-2605, ~~the Director of Health and Human~~
24 ~~Services~~ department shall adopt a fixed-rate schedule for the state
25 or a fixed-rate schedule for an area of the state applicable to
26 each child care program category of provider as defined in section
27 71-1910 which may claim reimbursement for services provided by

1 the federal Child Care Subsidy program, except that the department
2 shall not pay a rate higher than that charged by an individual
3 provider to that provider's private clients. The schedule may
4 provide separate rates for care for infants, for children with
5 special needs, including disabilities or technological dependence,
6 or for other individual categories of children. The schedule shall
7 be effective on October 1 of every year and shall be revised
8 annually by the ~~Director of Health and Human Services~~, department.

9 Sec. 258. Section 68-1207, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 68-1207 The ~~Director~~ Department of Health and Human
12 Services shall supervise all public child welfare services
13 as described by law. The ~~director~~ department shall establish
14 and maintain caseloads to carry out child welfare services
15 which provide for adequate, timely, and indepth investigations
16 and services to children and families. In establishing the
17 standards for such caseloads, the ~~director~~ department shall (1)
18 include the workload factors that may differ due to geographic
19 responsibilities, office location, and the travel required to
20 provide a timely response in the investigation of abuse and
21 neglect, the protection of children, and the provision of services
22 to children and families in a uniform and consistent statewide
23 manner and (2) consider workload standards recommended by national
24 child welfare organizations and factors related to the attainment
25 of such standards. The ~~director~~ department shall consult with the
26 appropriate employee representative in establishing such standards.

27 To carry out the provisions of this section, the

1 Legislature shall provide funds for additional staff.

2 Sec. 259. Section 68-1207.01, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 68-1207.01 The ~~Director~~ Department of Health and Human
5 Services shall annually provide a report to the Legislature and
6 Governor outlining the caseloads of child protective services, the
7 factors considered in their establishment, and the fiscal resources
8 necessary for their maintenance. Such report shall include:

9 (1) A comparison of caseloads established by the ~~director~~
10 department with the workload standards recommended by national
11 child welfare organizations along with the amount of fiscal
12 resources necessary to maintain such caseloads in Nebraska;

13 (2) (a) The number of child welfare services caseworkers
14 and case managers employed by the State of Nebraska and child
15 welfare services workers, providing services directly to children
16 and families, who are under contract with the State of Nebraska
17 or employed by a private entity under contract with the State of
18 Nebraska and (b) statistics on the average length of employment in
19 such positions, statewide and by health and human services area;

20 (3) (a) The average caseload of child welfare services
21 caseworkers and case managers employed by the State of Nebraska
22 and child welfare services workers, providing services directly to
23 children and families, who are under contract with the State of
24 Nebraska or employed by a private entity under contract with the
25 State of Nebraska and (b) the outcomes of such cases, including
26 the number of children reunited with their families, children
27 adopted, children in guardianships, placement of children with

1 relatives, and other permanent resolutions established, statewide
2 and by health and human services area; and

3 (4) The average cost of training child welfare services
4 caseworkers and case managers employed by the State of Nebraska
5 and child welfare services workers, providing services directly to
6 children and families, who are under contract with the State of
7 Nebraska or employed by a private entity under contract with the
8 State of Nebraska, statewide and by health and human services area.

9 Sec. 260. Section 68-1210, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 68-1210 Notwithstanding any other provision of law, the
12 ~~Director~~ Department of Health and Human Services shall have the
13 authority through rule or regulation to establish payment rates
14 for children with special needs who are in foster care and in the
15 custody of the ~~Department of Health and Human Services~~. department.

16 Sec. 261. Section 68-1402, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 68-1402 The ~~Director of Finance and Support~~ Department of
19 Health and Human Services shall establish and administer a program
20 for the medical care of persons of all ages with genetically
21 handicapping conditions, including cystic fibrosis, hemophilia, and
22 sickle cell disease, through physicians and health care providers
23 that are qualified pursuant to the regulations of the ~~Department of~~
24 ~~Health and Human Services Finance and Support~~ department to provide
25 such medical services. The ~~director~~ department shall adopt such
26 rules and regulations pursuant to the Administrative Procedure Act,
27 as are necessary for the implementation of the provisions of the

1 Genetically Handicapped Persons Act. The ~~director~~ department shall
2 establish priorities for the use of funds and provision of services
3 under the Genetically Handicapped Persons Act.

4 Sec. 262. Section 68-1403, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 68-1403 The program established under the Genetically
7 Handicapped Persons Act, which shall be under the supervision of
8 the Department of Health and Human Services, ~~Finance and Support~~,
9 shall include any or all of the following:

- 10 (1) Initial intake and diagnostic evaluation;
- 11 (2) The cost of blood transfusion and use of blood
12 derivatives, or both;
- 13 (3) Rehabilitation services, including reconstructive
14 surgery;
- 15 (4) Expert diagnosis;
- 16 (5) Medical treatment;
- 17 (6) Surgical treatment;
- 18 (7) Hospital care;
- 19 (8) Physical therapy;
- 20 (9) Occupational therapy;
- 21 (10) Materials and prescription drugs;
- 22 (11) Appliances and their upkeep, maintenance, and care;
- 23 (12) Maintenance, transportation, or care incidental to
24 any other form of services; and
- 25 (13) Appropriate and sufficient staff to carry out the
26 provisions of the Genetically Handicapped Persons Act.

27 Sec. 263. Section 68-1405, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 68-1405 The Department of Health and Human Services
3 ~~Finance and Support~~ shall establish uniform standards of
4 financial eligibility for the treatment services under the
5 program established under the Genetically Handicapped Persons
6 Act, including a uniform formula for the payment of services by
7 physicians and health care providers rendered under such program
8 and such formula for payment shall provide for reimbursement at
9 rates similar to those set by other federal and state programs,
10 and private entitlements. The standards of the department for
11 financial eligibility shall be the same as those established for
12 Medically Handicapped Children's Services, as administered by the
13 department. All county or district health departments shall use the
14 uniform standards for financial eligibility and uniform formula for
15 payment established by the department. All payments shall be used
16 in support of the program for services established under the act.

17 The department shall establish payment schedules for
18 services.

19 Sec. 264. Section 68-1503, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 68-1503 For purposes of the Disabled Persons and Family
22 Support Act:

23 (1) Department means the Department of Health and Human
24 Services; ~~Finance and Support;~~

25 (2) Disabled family member or disabled person means a
26 person who has a medically determinable severe, chronic disability
27 which:

1 (a) Is attributable to a mental or physical impairment or
2 combination of mental and physical impairments;

3 (b) Is likely to continue indefinitely;

4 (c) Results in substantial functional limitations in
5 two or more of the following areas of major life activity: (i)
6 Self-care, (ii) receptive and expressive language, (iii) learning,
7 (iv) mobility, (v) self-direction, (vi) capacity for independent
8 living, (vii) work skills or work tolerance, and (viii) economic
9 sufficiency; and

10 (d) Reflects the person's need for a combination and
11 sequence of special, interdisciplinary, or generic care, treatment,
12 vocational rehabilitation, or other services which are of lifelong
13 or extended duration and are individually planned and coordinated;
14 and

15 (3) Other support programs means all forms of local,
16 state, or federal assistance, grants-in-aid, educational programs,
17 or support provided by public or private funds for disabled persons
18 or their families.

19 Sec. 265. Section 68-1514, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 68-1514 ~~The Director of Finance and Support~~ chief
22 executive officer of the department, or his or her designated
23 representative, shall provide an opportunity for a fair hearing
24 ~~before the department~~ to any family or disabled person who is
25 denied support pursuant to the Disabled Persons and Family Support
26 Act.

27 Sec. 266. Section 68-1521, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 68-1521 For purposes of sections 68-1520 to 68-1528:

3 (1) Caregiver means an individual providing ongoing care
4 for an individual unable to care for himself or herself;

5 (2) Community lifespan respite services program means a
6 noncategorical respite services program that:

7 (a) Is operated by a community-based private nonprofit
8 or for-profit agency or a public agency that provides respite
9 services;

10 (b) Receives funding through the Nebraska Lifespan
11 Respite Services Program established under section 68-1522;

12 (c) Serves an area in one or more of the six regional
13 services areas of the department;

14 (d) Acts as a single local source for respite services
15 information and referral; and

16 (e) Facilitates access to local respite services;

17 (3) Department means the Department of Health and Human
18 Services; ~~Finance and Support;~~

19 (4) Noncategorical care means care without regard to the
20 age, type of special needs, or other status of the individual
21 receiving care;

22 (5) Provider means an individual or agency selected by a
23 family or caregiver to provide respite services to an individual
24 with special needs;

25 (6) Respite care means the provision of short-term relief
26 to primary caregivers from the demands of ongoing care for an
27 individual with special needs; and

1 (7) Respite services includes:

2 (a) Recruiting and screening of paid and unpaid respite
3 care providers;

4 (b) Identifying local training resources and organizing
5 training opportunities for respite care providers;

6 (c) Matching of families and caregivers with providers
7 and other types of respite care;

8 (d) Linking families and caregivers with payment
9 resources;

10 (e) Identifying, coordinating, and developing community
11 resources for respite services;

12 (f) Quality assurance and evaluation; and

13 (g) Assisting families and caregivers to identify respite
14 care needs and resources.

15 Sec. 267. Section 68-1522, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 68-1522 The ~~Director of Finance and Support~~ department
18 shall establish the Nebraska Lifespan Respite Services Program to
19 develop and encourage statewide coordination of respite services
20 and to work with community-based private nonprofit or for-profit
21 agencies, public agencies, and interested citizen groups in the
22 establishment of community lifespan respite services programs. The
23 Nebraska Lifespan Respite Services Program shall:

24 (1) Provide policy and program development support,
25 including, but not limited to, data collection and outcome
26 measures;

27 (2) Identify and promote resolution of local and

1 state-level policy concerns;

2 (3) Provide technical assistance to community lifespan
3 respite services programs;

4 (4) Develop and distribute respite services information;

5 (5) Promote the exchange of information and coordination
6 among state and local governments, community lifespan respite
7 services programs, agencies serving individuals unable to care
8 for themselves, families, and respite care advocates to encourage
9 efficient provision of respite services and reduce duplication of
10 effort;

11 (6) Ensure statewide access to community lifespan respite
12 services programs; and

13 (7) Monitor and evaluate implementation of community
14 lifespan respite services programs.

15 Sec. 268. Section 68-1523, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 68-1523 (1) The department, through the Nebraska Lifespan
18 Respite Services Program, shall coordinate the establishment of
19 community lifespan respite services programs. The program shall
20 accept proposals submitted in the form and manner required by
21 the program from community-based private nonprofit or for-profit
22 agencies or public agencies that provide respite services to
23 operate community lifespan respite services programs. According
24 to criteria established by the department, the Nebraska Lifespan
25 Respite Services Program shall designate and fund agencies
26 described in this section to operate community lifespan respite
27 services programs.

1 (2) ~~The Director of Finance and Support~~ department shall
2 create the position of program specialist for the Nebraska Lifespan
3 Respite Services Program to administer the program.

4 Sec. 269. Section 68-1732, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 68-1732 It is the intent of the Legislature that the
7 ~~Department of Health and Human Services Regulation and Licensure,~~
8 the Department of Health and Human Services, the State Department
9 of Education, the Department of Labor, ~~the Department of Health~~
10 ~~and Human Services Finance and Support,~~ the Office of Probation
11 Administration, the Department of Correctional Services, and the
12 Department of Economic Development will have integrated programs
13 and policies when serving a common customer. Organizational mergers
14 and operating agreements shall be developed within state government
15 which bring together the state's community-based child-serving and
16 family-serving resources in the areas of health care services,
17 social services, mental health services, developmental disabilities
18 services, juvenile justice, and education. Such actions shall
19 eliminate the need for the public to understand the differing
20 roles, responsibilities, and services of the agencies enumerated in
21 this section and their affiliates.

22 Sec. 270. Section 68-1802, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 68-1802 For purposes of the ICF/MR Reimbursement
25 Protection Act:

26 (1) Department means the Department of Health and Human
27 Services; ~~Finance and Support;~~

1 (2) Intermediate care facility for the mentally retarded
2 has the definition found in section 71-421;

3 (3) Medical assistance program means the program
4 established pursuant to the Medical Assistance Act; and

5 (4) Net revenue means the revenue paid to an intermediate
6 care facility for the mentally retarded for resident care, room,
7 board, and services less contractual adjustments and does not
8 include revenue from sources other than operations, including, but
9 not limited to, interest and guest meals.

10 Sec. 271. Section 68-1807, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 68-1807 (1) An intermediate care facility for the
13 mentally retarded that fails to pay the tax required by section
14 68-1803 shall be subject to a penalty of five hundred dollars per
15 day of delinquency. The total amount of the penalty assessed under
16 this section shall not exceed five percent of the tax due from the
17 intermediate care facility for the mentally retarded for the year
18 for which the tax is assessed.

19 (2) The department shall collect the penalties and remit
20 them to the State Treasurer for distribution in accordance with
21 Article VII, section 5, of the Constitution of Nebraska. Penalties
22 shall be collected by the department and remitted to the State
23 Treasurer for credit to the permanent school fund.

24 Sec. 272. Section 69-302, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 69-302 For purposes of the Mail Order Contact Lens Act:

27 (1) Contact lens prescription means a written order

1 bearing the original signature of an optometrist or physician or an
2 oral or electromagnetic order issued by an optometrist or physician
3 that authorizes the dispensing of contact lenses to a patient and
4 meets the requirements of section 69-303;

5 (2) Department means the Department of Health and Human
6 Services; ~~Regulation and Licensure;~~

7 (3) Mail-order ophthalmic provider means an entity that
8 ships, mails, or in any manner delivers dispensed contact lenses to
9 Nebraska residents;

10 (4) Optometrist means a person licensed to practice
11 optometry pursuant to sections 71-1,133 to 71-1,136.09; and

12 (5) Physician means a person licensed to practice
13 medicine and surgery pursuant to sections 71-1,102 to 71-1,107.14.

14 Sec. 273. Section 69-305, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 69-305 The mail-order ophthalmic provider shall pay a
17 fee equivalent to the annual fee for an initial or renewal permit
18 to operate a pharmacy in Nebraska as established in and at the
19 times provided for in the Health Care Facility Licensure Act. Such
20 fees shall be remitted to the State Treasurer for credit to the
21 ~~Department of Health and Human Services Regulation and Licensure~~
22 Health and Human Services Cash Fund.

23 Sec. 274. Section 71-101, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to
26 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354 and the
27 Physical Therapy Practice Act shall be known and may be cited as

1 the Uniform Licensing Law.

2 For purposes of the Uniform Licensing Law, unless the
3 context otherwise requires:

4 (1) Board or professional board means one of the boards
5 appointed by the State Board of Health pursuant to sections 71-111
6 and 71-112;

7 (2) Licensed, when applied to any licensee in any of the
8 professions named in section 71-102, means a person licensed under
9 the Uniform Licensing Law;

10 (3) Profession or health profession means any of the
11 several groups named in section 71-102;

12 (4) Department means the Division of Public Health of the
13 Department of Health and Human Services; ~~Regulation and Licensure;~~

14 (5) Whenever a particular gender is used, it is construed
15 to include both the masculine and the feminine, and the singular
16 number includes the plural when consistent with the intent of the
17 Uniform Licensing Law;

18 (6) License, licensing, or licensure means permission to
19 engage in a health profession which would otherwise be unlawful
20 in this state in the absence of such permission and which is
21 granted to individuals who meet prerequisite qualifications and
22 allows them to perform prescribed health professional tasks and use
23 a particular title;

24 (7) Certificate, certify, or certification, with respect
25 to professions, means a voluntary process by which a statutory,
26 regulatory entity grants recognition to an individual who has met
27 certain prerequisite qualifications specified by such regulatory

1 entity and who may assume or use the word certified in the title or
2 designation to perform prescribed health professional tasks. When
3 appropriate, certificate means a document issued by the department
4 which designates particular credentials for an individual;

5 (8) Lapse means the termination of the right or privilege
6 to represent oneself as a licensed, certified, or registered person
7 and to practice the profession when a license, certificate, or
8 registration is required to do so;

9 (9) Credentialing means the totality of the process
10 associated with obtaining state approval to provide health care
11 services or human services or changing aspects of a current
12 approval. Credentialing grants permission to use a protected
13 title that signifies that a person is qualified to provide the
14 services of a certain profession. Credential includes a license,
15 certificate, or registration; and

16 (10) Dependence means a compulsive or chronic need for
17 or an active addiction to alcohol or any controlled substance or
18 narcotic drug; and -

19 (11) Director means the Director of Public Health of the
20 Division of Public Health.

21 Sec. 275. Section 71-102, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 71-102 (1) No person shall engage in the practice
24 of medicine and surgery, athletic training, respiratory care,
25 osteopathic medicine, chiropractic, dentistry, dental hygiene,
26 pharmacy, podiatry, optometry, massage therapy, physical therapy,
27 audiology, speech-language pathology, embalming, funeral directing,

1 psychology, veterinary medicine and surgery, medical nutrition
2 therapy, acupuncture, mental health practice, or alcohol and drug
3 counseling unless such person has obtained a license from the
4 ~~Department of Health and Human Services Regulation and Licensure~~
5 department for that purpose.

6 (2) No person shall hold himself or herself out as a
7 certified social worker or certified master social worker unless
8 such person has obtained a certificate from the department for that
9 purpose.

10 (3) No person shall hold himself or herself out as a
11 certified professional counselor unless such person has obtained a
12 certificate from the department for such purpose.

13 (4) No person shall hold himself or herself out as a
14 certified marriage and family therapist unless such person has
15 obtained a certificate from the department for such purpose.

16 Sec. 276. Section 71-104, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-104 The ~~Department of Health and Human Services~~
19 ~~Regulation and Licensure~~ department may refuse to grant a license,
20 certificate, or registration to practice a profession to any
21 person, otherwise qualified, upon any of the grounds for which
22 a license, certificate, or registration may be revoked under the
23 provisions of the Uniform Licensing Law.

24 Sec. 277. Section 71-105, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-105 Every credential to practice a profession shall be
27 in the form of a document under the name and seal of the department

1 and signed by the ~~Director of Regulation and Licensure~~ director and
2 the Governor. It shall also be countersigned by the members of the
3 appropriate professional board, except that all credentials granted
4 without examination may be issued by the department under its name
5 and seal and signed by its director and the Governor. A copy of all
6 credentials shall be retained in the department and given the same
7 number as has been assigned to the credentialed person in the other
8 records of the department.

9 Sec. 278. Section 71-121.01, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-121.01 The department shall be responsible for the
12 general administration of the activities of each of the boards as
13 defined in the Advanced Practice Registered Nurse Licensure Act,
14 the Certified Registered Nurse Anesthetist Act, the Clinical Nurse
15 Specialist Practice Act, the Nebraska Certified Nurse Midwifery
16 Practice Act, the Nebraska Cosmetology Act, the Nurse Practice
17 Act, the Nurse Practitioner Act, the Occupational Therapy Practice
18 Act, and sections 71-4701 to 71-4719 and 71-6053 to 71-6068 and
19 the boards covered by the scope of the Uniform Licensing Law and
20 named in section 71-102. The cost of operation and administration
21 of the boards shall be paid from fees, gifts, grants, and other
22 money credited to the Professional and Occupational Credentialing
23 Cash Fund. The ~~Director of Regulation and Licensure~~ director shall
24 determine the proportionate share of this cost to be paid from the
25 fees of the respective boards, except that no fees shall be paid
26 for such purpose from the fund without the prior approval of the
27 boards concerned. The director's determinations shall become final

1 when approved by the respective boards ~~and the department~~ and shall
2 be valid for one fiscal year only.

3 Sec. 279. Section 71-139, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-139 (1) The department may, without examination,
6 except when a practical examination is required, issue a license
7 to practice any profession, except pharmacy, podiatry, dentistry,
8 medicine and surgery, optometry, osteopathic medicine and surgery
9 or as an osteopathic physician, and audiology and speech-language
10 pathology, to a person who has been in the active practice of
11 such profession in another state or territory of the United
12 States or the District of Columbia upon (a) certification by the
13 proper licensing authority of the state, territory, or District
14 of Columbia that (i) the applicant is duly licensed, (ii) his or
15 her license has never been suspended or revoked, and (iii) so far
16 as the records of such authority are concerned, the applicant is
17 entitled to its endorsement and (b) proof of the following:

18 (i) That the state, territory, or District of Columbia
19 has and maintains standards regulating such profession equal to
20 those maintained in this state;

21 (ii) That his or her license was based upon a written
22 examination and the grades given at such examination;

23 (iii) The date of his or her license;

24 (iv) That he or she has been actively engaged in the
25 practice of such profession under such license or in an accepted
26 residency or graduate training program for at least one of the
27 three years immediately preceding the application for license by

1 reciprocity;

2 (v) That the applicant is of good moral character and
3 standing in his or her profession as evidenced by completing
4 under oath an application from the department containing such a
5 statement; and

6 (vi) That the applicant has been in the active and
7 continuous practice of such profession under license by examination
8 in such state, territory, or District of Columbia for at least one
9 year.

10 (2) An applicant for reciprocal registration coming from
11 any state may be licensed by reciprocity if his or her individual
12 qualifications meet the Nebraska legal requirements.

13 (3) The department may issue certificates or
14 registrations on a reciprocal basis to persons who are
15 required to be certified or registered pursuant to the Uniform
16 Licensing Law. The department may adopt and promulgate rules and
17 regulations for reciprocity pursuant to this section.

18 (4) Persons who graduate from schools or colleges of
19 osteopathic medicine accredited by the department on recommendation
20 of the Board of Examiners in Osteopathy since January 1, 1963, and
21 prior to May 23, 1981, and after May 23, 1981, persons who graduate
22 from schools or colleges of osteopathic medicine accredited by
23 the department on recommendation of the Board of Medicine and
24 Surgery who meet the requirements of this section and who have
25 passed a written examination which is equivalent to that required
26 in section 71-1,104 as determined by the Board of Medicine and
27 Surgery and who meet the requirements of section 71-1,137 for the

1 practice of osteopathic medicine and surgery as evidenced by a
2 certificate of the Board of Medicine and Surgery may be granted a
3 license to practice osteopathic medicine and surgery as defined in
4 section 71-1,137 if such person has been actively engaged in the
5 practice under such license or in an accepted residency or graduate
6 training program for at least one of the three years immediately
7 preceding the application for license by reciprocity. Graduates
8 of an accredited school or college of osteopathic medicine since
9 January 1, 1963, who meet the requirements of this section and
10 who meet the applicable requirements of section 71-1,139.01 as
11 certified by the Board of Medicine and Surgery may be granted a
12 special license as doctor of osteopathic medicine and surgery.

13 (5) The department may approve without examination any
14 person who has been duly licensed to practice optometry in another
15 state or territory of the United States or the District of Columbia
16 under conditions and circumstances which the Board of Optometry
17 shall find to be comparable to the requirements of the State of
18 Nebraska for obtaining a license to practice optometry if such
19 person has been actively engaged in the practice under such license
20 for at least one of the three years immediately preceding the
21 application for license by reciprocity. The applicant shall produce
22 evidence satisfactory to the board that he or she has had the
23 required secondary and professional education and training. The
24 applicant shall provide certification from the proper licensing
25 authority of the state, territory, or District of Columbia where
26 he or she is licensed to practice such profession that he or she
27 is duly licensed, that his or her license has not been suspended

1 or revoked, and that so far as the records of such authority
2 are concerned he or she is entitled to its endorsement. If the
3 applicant is found to meet the requirements provided in this
4 section and is qualified to be licensed to practice the profession
5 of optometry in the State of Nebraska, the board shall issue a
6 license to practice optometry in the State of Nebraska to such
7 applicant.

8 (6) The Board of Dentistry may approve any person who
9 has been duly licensed to practice dentistry or dental hygiene in
10 another state or territory of the United States or the District of
11 Columbia under conditions and circumstances which the board finds
12 to be comparable to the requirements of the State of Nebraska for
13 obtaining a license to practice dentistry or dental hygiene if such
14 person has been actively engaged in the practice under such license
15 or in an accepted residency or graduate training program for at
16 least three years, one of which shall be within the three years
17 immediately preceding the application for license by reciprocity.
18 The applicant shall produce evidence satisfactory to the board
19 that he or she has had the required secondary and professional
20 education and training and is possessed of good character and
21 morals as required by the laws of the State of Nebraska. The
22 applicant shall provide certification from the proper licensing
23 authority of the state, territory, or District of Columbia where
24 he or she is licensed to practice such profession that he or she
25 is duly licensed, that his or her license has not been suspended
26 or revoked, and that so far as the records of such authority are
27 concerned he or she is entitled to its endorsement. The applicant

1 shall submit evidence of completion during the twelve-month period
2 preceding the application of continuing competency requirements
3 comparable to the requirements of this state. The board may
4 administer an oral examination to all applicants for licensure by
5 reciprocity to assess their knowledge of basic clinical aspects
6 of dentistry or dental hygiene. If the applicant is found by
7 the board to meet the requirements provided in this section,
8 the board shall certify such fact to the department, and the
9 department upon receipt of such certification shall issue a license
10 to practice dentistry or dental hygiene in the State of Nebraska
11 to such applicant. If the board finds that the applicant does not
12 satisfy the requirements of this section, the board shall certify
13 its findings to the department. ~~The Director of Regulation and~~
14 ~~Licensure~~ director shall review the findings, and if he or she
15 agrees with the findings, the director shall deny the application.

16 Sec. 280. Section 71-141, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-141 In order that the department may determine the
19 standards established by law and by rule in the other states,
20 the director, ~~Director of Regulation and Licensure~~, or some other
21 person authorized by the director, shall gather information from
22 other states bearing upon this point. The applicant shall, upon the
23 request of the department, be responsible for securing information
24 from the proper authority of the place from which he or she
25 comes, of the standards maintained there, and the laws and rules
26 relating thereto. In determining these standards, the department
27 shall submit to the appropriate professional board any question

1 that requires the exercise of expert knowledge.

2 Sec. 281. Section 71-142, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-142 Where the licensing authority in any other state
5 shall refuse to accept applicants from Nebraska who are qualified
6 to be admitted under the laws of that state, and have been properly
7 certified by the ~~Department of Health and Human Services Regulation~~
8 ~~and Licensure~~ department of this state, then the department may
9 decline to admit without examination licensees from that state.

10 Sec. 282. Section 71-150, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-150 (1) ~~The Director of Regulation and Licensure~~
13 director shall have jurisdiction of proceedings (a) to deny the
14 issuance of a license, certificate, or registration, (b) to refuse
15 renewal of a license, certificate, or registration, and (c) to
16 discipline a licensee, certificate holder, or registrant.

17 (2) To deny or refuse renewal of a license, certificate,
18 or registration, the department shall send the applicant, licensee,
19 certificate holder, or registrant, by registered or certified
20 mail, notice setting forth the action taken and the reasons
21 for the determination. The denial or refusal to renew shall
22 become final thirty days after mailing the notice unless the
23 applicant, licensee, certificate holder, or registrant, within such
24 thirty-day period, gives written notice of his or her desire for
25 a hearing. The hearing shall be conducted in accordance with the
26 Administrative Procedure Act.

27 (3) In order for the director to discipline a licensee,

1 certificate holder, or registrant, a petition shall be filed by
2 the Attorney General in all cases. The petition shall be filed in
3 the office of the director. The department may withhold a petition
4 for discipline or a final decision from public access for a period
5 of five days from the date of filing the petition or the date
6 the decision is entered or until service is made, whichever is
7 earliest.

8 Sec. 283. Section 71-151, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-151 The Attorney General shall comply with such
11 directions of the Department of Health and Human Services
12 Regulation and Licensure ~~or of the Director of Regulation and~~
13 ~~Licensure~~ director and prosecute such action on behalf of the
14 state, but the county attorney of any county where a licensee,
15 certificate holder, or registrant has practiced, at the request
16 of the Attorney General or of the department, shall appear and
17 prosecute such action.

18 Sec. 284. Section 71-153, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-153 Upon the presentation of the petition to the
21 ~~Director of Regulation and Licensure,~~ director, he or she shall
22 make an order fixing the time and place for the hearing, which
23 shall not be less than thirty nor more than sixty days thereafter.

24 Sec. 285. Section 71-155, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-155 (1) The proceeding under section 71-150 shall be
27 summary in its nature and triable as an equity action and shall

1 be heard by the ~~Director of Regulation and Licensure~~ director
2 or by a hearing officer designated by the director under rules
3 and regulations of the department. Affidavits may be received in
4 evidence in the discretion of the director or hearing officer. The
5 department shall have the power to administer oaths, to subpoena
6 witnesses and compel their attendance, and to issue subpoenas duces
7 tecum and require the production of books, accounts, and documents
8 in the same manner and to the same extent as the district courts
9 of the state. Depositions may be used by either party. Upon the
10 completion of any hearing held under this section, the director
11 shall, if the petition is brought with respect to subdivision
12 (15) of section 71-148, make findings as to whether the licensee's
13 conduct was necessary to save the life of a mother whose life was
14 endangered by a physical disorder, physical illness, or physical
15 injury, including a life-endangering physical condition caused by
16 or arising from the pregnancy itself, and shall have the authority
17 through entry of an order to exercise in his or her discretion any
18 or all of the following powers, irrespective of the petition:

- 19 (a) Issue a censure against the credentialed person;
- 20 (b) Place the credentialed person on probation;
- 21 (c) Place a limitation or limitations on the credential
22 and upon the right of the credentialed person to practice the
23 profession to such extent, scope, or type of practice, for such
24 time, and under such conditions as are found necessary and proper;
- 25 (d) Impose a civil penalty not to exceed twenty thousand
26 dollars. The amount of the penalty shall be based on the severity
27 of the violation;

1 (e) Enter an order of suspension of the credential;

2 (f) Enter an order of revocation of the credential; and

3 (g) Dismiss the action.

4 (2) If the director determines that guilt has been
5 established, the director may, at his or her discretion, consult
6 with the professional board for the profession involved concerning
7 sanctions to be imposed or terms and conditions of the sanctions.
8 When the director consults with a professional board, the
9 credentialed person shall be provided with a copy of the director's
10 request, the recommendation of the board, and an opportunity to
11 respond in such manner as the director determines.

12 (3) The credentialed person shall not engage in the
13 practice of a profession after a credential to practice such
14 profession is revoked or during the time for which it is suspended.
15 If a credential is suspended, the suspension shall be for a
16 definite period of time to be set by the director. The director may
17 provide that the credential shall be automatically reinstated upon
18 expiration of such period, reinstated if the terms and conditions
19 as set by the director are satisfied, or reinstated subject to
20 probation or limitations or conditions upon the practice of the
21 credentialed person. If such credential is revoked, such revocation
22 shall be for all times, except that at any time after the
23 expiration of two years, application may be made for reinstatement
24 pursuant to section 71-161.04.

25 Sec. 286. Section 71-155.01, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-155.01 If a chief medical officer is appointed

1 pursuant to section ~~81-3201~~, 6 of this act, he or she shall perform
2 the duties of the ~~Director of Regulation and Licensure~~ director
3 for decisions in contested cases under sections 71-150, 71-153
4 to 71-155, 71-156, 71-161.02, 71-161.03, 71-161.07, 71-161.11 to
5 71-161.15, 71-161.17, 71-161.18, 71-161.20, 71-1,104, 71-1,142,
6 71-1,147.31, 71-1,147.44, and 71-1,147.45.

7 Sec. 287. Section 71-156, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-156 In case the licensee, certificate holder, or
10 registrant fails to appear, either in person or by counsel at the
11 time and place designated in the notice required by section 71-154,
12 the ~~Director of Regulation and Licensure~~ director after receiving
13 satisfactory evidence of the truth of the charges shall order
14 the license, certificate, or registration revoked or suspended or
15 shall ~~order~~ take any or all of the other appropriate disciplinary
16 measures authorized by section 71-155 ~~to be taken~~ against the
17 licensee, certificate holder, or registrant.

18 Sec. 288. Section 71-161.02, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-161.02 The authority of the ~~Director of Regulation and~~
21 ~~Licensure~~ director to discipline a licensee, certificate holder, or
22 registrant by placing him or her on probation pursuant to section
23 71-155 shall include, but not be limited to, the following:

24 (1) To require the licensee, certificate holder, or
25 registrant to obtain additional professional training and to pass
26 an examination upon the completion of the training. The examination
27 may be written or oral or both and may be a practical or clinical

1 examination or both or any or all of such combinations of written,
2 oral, practical, and clinical, at the option of the director;

3 (2) To require the licensee, certificate holder, or
4 registrant to submit to a complete diagnostic examination by one or
5 more physicians appointed by the director. If the director requires
6 the licensee, certificate holder, or registrant to submit to such
7 an examination, the director shall receive and consider any other
8 report of a complete diagnostic examination given by one or more
9 physicians of the licensee's, certificate holder's, or registrant's
10 choice if the licensee, certificate holder, or registrant chooses
11 to make available such a report or reports by his or her physician
12 or physicians; and

13 (3) To limit the extent, scope, or type of practice of
14 the licensee, certificate holder, or registrant.

15 Sec. 289. Section 71-161.03, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-161.03 (1) Any petition filed with the ~~Director of~~
18 ~~Regulation and Licensure~~ director pursuant to section 71-150 may,
19 at any time prior to the entry of any order by the director,
20 be disposed of by stipulation, agreed settlement, consent order,
21 or similar method as agreed to between the parties. A proposed
22 settlement shall be submitted and considered in camera and shall
23 not be a public record unless accepted by the director. The
24 director may review the input provided to the Attorney General
25 by the board pursuant to subsection (2) of this section. If the
26 settlement is acceptable to the director, he or she shall make
27 it the sole basis of any order he or she enters in the matter,

1 and it may be modified or added to by the director only upon the
2 mutual consent of both of the parties thereto. If the settlement is
3 not acceptable to the director, it shall not be admissible in any
4 subsequent hearing and it shall not be considered in any manner as
5 an admission.

6 (2) The Attorney General shall not enter into any
7 agreed settlement or dismiss any petition without first having
8 given notice of the proposed action and an opportunity to the
9 appropriate professional board to provide input into the terms of
10 the settlement or on dismissal. The board shall have fifteen days
11 from the date of the Attorney General's request to respond, but
12 the recommendation of the board, if any, shall not be binding
13 on the Attorney General. Meetings of the board for such purpose
14 shall be in closed session, and any recommendation by the board
15 to the Attorney General shall not be a public record until the
16 pending action is complete, except that if the director reviews the
17 input provided to the Attorney General by the board as provided
18 in subsection (1) of this section, the licensee, ~~or~~ certificate
19 holder, or registrant shall also be provided a copy of the
20 input and opportunity to respond in such manner as the director
21 determines.

22 Sec. 290. Section 71-161.06, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-161.06 A petition for reinstatement of a license,
25 certificate, or registration shall be considered at the next
26 meeting of the board that is held not earlier than thirty days
27 after the petition was filed. No public hearing need be held

1 on the petition if the board recommends reinstatement of the
2 license, certificate, or registration. Opportunity for a formal
3 public hearing on the petition shall be granted by the board, if
4 formally requested by the petitioner, prior to any recommendation
5 by the board against reinstatement. Any petition for reinstatement
6 accompanied by the requisite information and necessary documents
7 shall be conclusively acted upon by the board within one hundred
8 eighty days after the filing of the properly prepared petition and
9 necessary accompanying documents with the board. If the petitioner
10 formally requests opportunity for a formal public hearing thereon
11 or if the board otherwise holds such a hearing, the petitioner
12 shall be given at least thirty days' prior notice thereof by
13 sending a copy of the notice of hearing by means of certified or
14 registered mail directed to the petitioner at his or her last-known
15 residence or business post office address as shown by the files or
16 records of the ~~Department of Health and Human Services Regulation~~
17 ~~and Licensure~~ department or as otherwise known or by means of
18 personal service by being personally served by any sheriff or
19 constable or by any person especially appointed by the board. The
20 hearing may be continued from time to time as the board finds
21 necessary.

22 Sec. 291. Section 71-161.07, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-161.07 (1) Each professional board shall make a
25 recommendation to the ~~Director of Regulation and Licensure~~ director
26 regarding reinstatement following disciplinary action within the
27 board's profession. In determining whether reinstatement should

1 be recommended, the board (a) may request the department to
2 investigate the petitioner to determine if the petitioner has
3 committed acts or offenses prohibited by sections 71-147 and
4 71-148, (b) may require the petitioner to submit to a complete
5 diagnostic examination by one or more physicians appointed by the
6 board, the petitioner being free also to consult a physician or
7 physicians of his or her own choice for a complete diagnostic
8 examination and to make available a report or reports thereof to
9 the board, (c) may require the petitioner to pass a written, oral,
10 or practical examination or any combination of such examinations,
11 and (d) may require additional education.

12 (2) The affirmative vote of a majority of the members
13 of the board shall be necessary to recommend reinstatement of
14 a credential with or without terms, conditions, or restrictions.
15 The board may grant or deny, without a hearing or argument,
16 any petition to recommend reinstatement filed pursuant to section
17 71-161.04 when the petitioner has been afforded a hearing or an
18 opportunity for a hearing upon any such petition within a period of
19 two years immediately preceding the filing of such petition.

20 (3) Denial by the board of the petition for
21 recommendation of reinstatement of the license or certificate
22 may be appealed. The appeal shall be in accordance with the
23 Administrative Procedure Act.

24 Sec. 292. Section 71-161.12, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-161.12 In addition to the grounds for denial, refusal
27 of renewal, limitation, suspension, or revocation of a license,

1 certificate, or registration as otherwise provided by law, a
2 license, certificate, or registration to practice any profession
3 or occupation regulated by the ~~Department of Health and Human~~
4 ~~Services Regulation and Licensure~~ department pursuant to Chapter 71
5 shall be denied, refused renewal, limited, suspended, or revoked
6 automatically by the ~~Director of Regulation and Licensure~~ director
7 when the applicant, licensee, certificate holder, or registrant is
8 found to be not qualified to practice the particular profession or
9 occupation for which he or she is applying, licensed, certified,
10 or registered because of habitual intoxication or dependence,
11 physical or mental illness, or physical or mental deterioration or
12 disability.

13 Sec. 293. Section 71-161.13, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-161.13 When any complaint has been filed with the
16 department by any person or any report has been made to the
17 ~~Director of Regulation and Licensure~~ director by the Licensee
18 Assistance Program under section 71-172.01 alleging that an
19 applicant for a credential or a person credentialed to practice any
20 profession or occupation in the state regulated by the department
21 pursuant to Chapter 71 is suffering from habitual intoxication
22 or dependence, physical or mental illness, or physical or mental
23 deterioration or disability, the ~~Director of Regulation and~~
24 ~~Licensure~~ director shall investigate such complaint to determine
25 if any reasonable cause exists to question the qualification of
26 the applicant or credentialed person to practice or to continue
27 to practice such profession or occupation. If the director on the

1 basis of such investigation or, in the absence of such complaint,
2 upon the basis of his or her own independent knowledge finds
3 that reasonable cause exists to question the qualification of
4 the applicant or credentialed person to practice such profession
5 or occupation because of habitual intoxication or dependence,
6 physical or mental illness, or physical or mental deterioration or
7 disability, the director shall report such finding and evidence
8 supporting it to the appropriate professional board and if
9 such board agrees that reasonable cause exists to question the
10 qualification of such applicant or credentialed person, the board
11 shall appoint a committee of three qualified physicians to examine
12 the applicant or credentialed person and to report their findings
13 and conclusions to the board. The board shall then consider the
14 findings and the conclusions of the physicians and any other
15 evidence or material which may be submitted to that board by
16 the applicant or credentialed person, by the director, or by
17 any other person and shall then determine if the applicant or
18 credentialed person is qualified to practice or to continue to
19 practice such profession or occupation in the State of Nebraska.
20 If such board finds the applicant or credentialed person to
21 be not qualified to practice or to continue to practice such
22 profession or occupation because of habitual intoxication or
23 dependence, physical or mental illness, or physical or mental
24 deterioration or disability, the board shall so certify that fact
25 to the director with a recommendation for the denial, refusal of
26 renewal, limitation, suspension, or revocation of such credential.
27 The director shall thereupon deny, refuse renewal of, suspend, or

1 revoke the credential or limit the credential of the credentialed
2 person to practice such profession or occupation in the state in
3 such manner and to such extent as the director determines to be
4 necessary for the protection of the public.

5 Sec. 294. Section 71-161.14, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-161.14 The denial, refusal of renewal, limitation,
8 suspension, or revocation of a credential as provided in section
9 71-161.13 shall continue in effect until reversed on appeal or
10 until the cause of such denial, refusal of renewal, limitation,
11 suspension, or revocation no longer exists and the appropriate
12 professional board finds, upon competent medical evaluation by
13 a qualified physician or physicians, that the applicant, former
14 credentialed person, or credentialed person is qualified to engage
15 in the practice of the profession or occupation for which he or she
16 made application, for which he or she was formerly credentialed,
17 or for which he or she was credentialed subject to limitation and
18 certifies that fact to the ~~Director of Regulation and Licensure.~~
19 director. Upon such finding the director, notwithstanding the
20 provision of any other statute, shall issue, return, or reinstate
21 such credential or remove any limitation on such credential if
22 the person is otherwise qualified as determined by the appropriate
23 professional board to practice or to continue in the practice of
24 the profession or occupation.

25 Sec. 295. Section 71-161.16, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-161.16 Any applicant, licensee, certificate holder, or

1 registrant shall have the right to appeal from an order denying,
2 refusing renewal of, limiting, suspending, or revoking a license,
3 certificate, or registration to practice a profession or occupation
4 regulated by the ~~Department of Health and Human Services Regulation~~
5 ~~and Licensure~~ department pursuant to Chapter 71 because of habitual
6 intoxication or dependence, physical or mental illness, or physical
7 or mental deterioration or disability. Such appeal shall be in
8 accordance with the Administrative Procedure Act.

9 Sec. 296. Section 71-161.17, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-161.17 (1) The license, certificate, or registration
12 of any person to practice any profession or occupation licensed,
13 certified, or registered by the ~~Department of Health and Human~~
14 ~~Services Regulation and Licensure~~ department pursuant to the
15 provisions of Chapter 71 shall be suspended automatically if
16 he or she is determined by legal process to be mentally ill.

17 (2) A certified copy of the document evidencing that such
18 a licensee, certificate holder, or registrant has been determined
19 by legal process to be mentally ill shall be transmitted to the
20 ~~Director of Regulation and Licensure~~ director as soon as possible
21 following such determination.

22 (3) A suspension under this section may be terminated by
23 the ~~Director of Regulation and Licensure~~ director when he or she
24 receives competent evidence that such former practitioner is not
25 or is no longer mentally ill and is otherwise satisfied, with due
26 regard for the public interest, that such former practitioner's
27 license, certificate, or registration to practice may be restored.

1 Sec. 297. Section 71-161.20, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-161.20 (1) An applicant may apply to the ~~Director of~~
4 ~~Regulation and Licensure~~ director for reinstatement only with an
5 affirmative recommendation of the appropriate professional board,
6 and such application to the director may not be received or
7 filed by the director unless accompanied by (a) the written
8 recommendation of the board, including any finding of fact or
9 order of the board, (b) the application submitted to the board,
10 (c) the record of hearing if any, and (d) any pleadings, motions,
11 requests, preliminary or intermediate rulings and orders, and
12 similar correspondence to or from the board and the petitioner.

13 (2) The director shall then review the application and
14 other documents and may affirm the recommendation of the board and
15 grant reinstatement or may reverse or modify the recommendation if
16 the board's recommendation is (a) in excess of statutory authority,
17 (b) made upon unlawful procedure, (c) unsupported by competent,
18 material, and substantial evidence in view of the entire record, or
19 (d) arbitrary or capricious.

20 Sec. 298. Section 71-165, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-165 Any person who shall file, or attempt to file,
23 with the ~~Department of Health and Human Services Regulation and~~
24 ~~Licensure~~ department any false or forged diploma or certificate,
25 or affidavit of identification or qualification, shall be deemed
26 guilty of forgery, and upon conviction thereof shall be punished
27 according to the penalties imposed in the statutes relating to that

1 subject.

2 Sec. 299. Section 71-169, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-169 The ~~Department of Health and Human Services~~
5 ~~Regulation and Licensure~~ department shall promulgate necessary
6 rules and regulations and forms for carrying out the provisions of
7 the Uniform Licensing Law. It may also adopt rules and regulations
8 supplementing any of the provisions herein contained but not
9 inconsistent therewith.

10 Sec. 300. Section 71-172.01, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-172.01 (1) The ~~Department of Health and Human Services~~
13 ~~Regulation and Licensure~~ may contract with the Department of
14 ~~Health and Human Services~~ to department may contract to provide a
15 Licensee Assistance Program to credential holders regulated by the
16 ~~Department of Health and Human Services Regulation and Licensure-~~
17 department. The program shall be limited to providing education,
18 referral assistance, and monitoring of compliance with treatment
19 of habitual intoxication or dependence and shall be limited to
20 voluntary participation by credential holders.

21 (2) (a) Participation in the program shall be
22 confidential, except that if any evaluation by the program
23 determines that the intoxication or dependence may be of a nature
24 which constitutes a danger to the public health and safety by the
25 person's continued practice or if the person fails to comply with
26 any term or condition of a treatment plan, the program shall report
27 the same to the ~~Director of Regulation and Licensure-~~ director.

1 (b) Participation in the program shall not preclude the
2 investigation of alleged statutory violations which could result
3 in disciplinary action against the person's credential or criminal
4 action against the person. Any report from any person or from the
5 program to the ~~Department of Health and Human Services Regulation~~
6 ~~and Licensure~~ department indicating that a credential holder is
7 suffering from habitual intoxication or dependence shall be treated
8 as a complaint against such credential and shall subject such
9 credential holder to discipline under sections 71-150 to 71-155.

10 (3) No person who makes a report of intoxication or
11 dependence to the program or from the program to the department
12 shall be liable in damages to any person for slander, libel,
13 defamation of character, breach of any privileged communication, or
14 other criminal or civil action of any nature, whether direct or
15 derivative, for making such report or providing information to the
16 program or department in accordance with this section.

17 (4) Any person who contacts the department for
18 information on or assistance in obtaining referral or treatment
19 of himself or herself or any other person credentialed by the
20 department for habitual intoxication or dependence shall be
21 referred to the program. Such inquiries shall not be used by
22 the department as the basis for investigation for disciplinary
23 action, except that such limitation shall not apply to complaints
24 or any other reports or inquiries made to the department concerning
25 persons who may be suffering from habitual intoxication or
26 dependence or when a complaint has been filed or an investigation
27 or disciplinary or other administrative proceeding is in process.

1 Sec. 301. Section 71-172.02, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-172.02 The ~~Department of Health and Human Services~~
4 ~~Regulation and Licensure~~ department shall charge a fee of one
5 dollar per year, in addition to any other fee, for each credential.
6 Such fee shall be collected at the time of issuance or renewal and
7 shall be remitted to the State Treasurer for credit to the Licensee
8 Assistance Cash Fund, which fund is hereby created. Money in the
9 fund shall be used to carry out section 71-172.01. Any money in
10 the fund available for investment shall be invested by the state
11 investment officer pursuant to the Nebraska Capital Expansion Act
12 and the Nebraska State Funds Investment Act.

13 Sec. 302. Section 71-181, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-181 The ~~Department of Health and Human Services~~
16 ~~Regulation and Licensure~~ department may in its discretion dispense
17 with the examination in case of a chiropractor duly authorized
18 to practice chiropractic in any other state, territory, or the
19 District of Columbia, maintaining standards established by law or
20 by duly authorized rules, equal to those of Nebraska, and who
21 presents a certificate or license based on written examination
22 issued by the proper authority of such other state, territory, or
23 the District of Columbia.

24 Sec. 303. Section 71-188, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-188 When a person licensed to practice dentistry in
27 this state changes his or her place of residence, he or she

1 shall forthwith notify the ~~Department of Health and Human Services~~
2 ~~Regulation and Licensure~~ department of such change, which shall be
3 noted in the records of the department.

4 Sec. 304. Section 71-193.01, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 71-193.01 There is hereby established the Office of Oral
7 Health and Dentistry in the ~~Department of Health and Human Services~~
8 ~~Regulation and Licensure-~~ department. The head of such office shall
9 be known as the Dental Health Director and shall be appointed by
10 the department. The Dental Health Director shall give full time to
11 his or her duties.

12 Sec. 305. Section 71-193.13, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-193.13 Any licensed dentist, public institution, or
15 school may employ dental assistants, in addition to licensed
16 dental hygienists. Such dental assistants, under the supervision
17 of a licensed dentist, may perform such duties as are prescribed
18 in accordance with rules and regulations adopted and promulgated
19 by the ~~Department of Health and Human Services Regulation and~~
20 ~~Licensure-~~ department.

21 Sec. 306. Section 71-193.15, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-193.15 A licensed dental hygienist shall perform the
24 traditional dental hygiene functions set forth in section 71-193.17
25 only when authorized to do so by a licensed dentist who shall be
26 responsible for the total oral health care of the patient. The
27 ~~Department of Health and Human Services Regulation and Licensure~~

1 department in the conduct of public health-related services may
2 authorize a licensed dental hygienist to conduct preliminary
3 charting and screening examinations, provide oral health education
4 for patients including the teaching of appropriate plaque control
5 techniques, and perform or provide all of the duties that any
6 dental assistant is authorized to perform.

7 Sec. 307. Section 71-193.18, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-193.18 (1) A licensed dental hygienist may monitor
10 nitrous oxide analgesia under the indirect supervision of a
11 licensed dentist.

12 (2) A licensed dental hygienist may be approved by the
13 department, upon the recommendation of the Board of Dentistry,
14 to administer local anesthesia under the indirect supervision of
15 a licensed dentist. The department may, upon the recommendation
16 of the board, prescribe by rule and regulation: The necessary
17 education and preparation, which shall include, but not be limited
18 to, instruction in the areas of head and neck anatomy, osteology,
19 physiology, pharmacology, medical emergencies, and clinical
20 techniques; the necessary clinical experience; and the necessary
21 examination for purposes of determining the competence of licensed
22 dental hygienists to administer local anesthesia.

23 Upon the recommendation of the board, the department may
24 approve successful completion after July 1, 1994, of a course of
25 instruction to determine competence to administer local anesthesia.
26 The course of instruction must be at an institution accredited
27 by a regional or professional accrediting organization which

1 is recognized by the United States Department of Education and
2 approved by the ~~Department of Health and Human Services Regulation~~
3 ~~and Licensure~~ department. The course of instruction must be taught
4 by a faculty member or members of the institution presenting the
5 course. The department may approve for purposes of this subsection
6 a course of instruction if such course includes:

7 (a) At least twelve clock hours of classroom lecture,
8 including instruction in (i) medical history evaluation procedures,
9 (ii) anatomy of the head, neck, and oral cavity as it relates to
10 administering local anesthetic agents, (iii) pharmacology of local
11 anesthetic agents, vasoconstrictor, and preservatives, including
12 physiologic actions, types of anesthetics, and maximum dose per
13 weight, (iv) systemic conditions which influence selection and
14 administration of anesthetic agents, (v) signs and symptoms of
15 reactions to local anesthetic agents, including monitoring of vital
16 signs, (vi) management of reactions to or complications associated
17 with the administration of local anesthetic agents, (vii) selection
18 and preparation of the armamentaria for administering various
19 local anesthetic agents, and (viii) methods of administering local
20 anesthetic agents;

21 (b) At least twelve clock hours of clinical instruction
22 during which time at least three injections of each of the
23 anterior, middle and posterior superior alveolar, naso and greater
24 palatine, inferior alveolar, lingual, mental, long buccal, and
25 infiltration injections are administered; and

26 (c) Procedures, which shall include an examination, for
27 purposes of determining whether the hygienist has acquired the

1 necessary knowledge and proficiency to administer local anesthetic
2 agents.

3 Sec. 308. Section 71-193.19, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-193.19 The ~~Department of Health and Human Services~~
6 ~~Regulation and Licensure~~ department may, by rule and regulation,
7 prescribe functions, procedures, and services in addition to those
8 in section 71-193.17 which may be performed by a licensed dental
9 hygienist under the supervision of a licensed dentist when such
10 additional procedures are educational or related to the oral
11 prophylaxis and intended to attain or maintain optimal oral health.

12 Sec. 309. Section 71-193.22, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-193.22 As used in the Dental Anesthesia Act, unless
15 the context otherwise requires:

16 (1) Analgesia shall mean the diminution or elimination of
17 pain in the conscious patient;

18 (2) Board shall mean the Board of Dentistry;

19 (3) Department shall mean the Division of Public Health
20 of the Department of Health and Human Services; ~~Regulation and~~
21 ~~Licensure;~~

22 (4) General anesthesia shall mean a controlled state
23 of unconsciousness accompanied by a partial or complete loss
24 of protective reflexes, including the inability to independently
25 maintain an airway and respond purposefully to physical
26 stimulation or verbal command, and produced by a pharmacologic or
27 nonpharmacologic method or a combination thereof;

1 (5) Inhalation analgesia shall mean the administration
2 of nitrous oxide and oxygen to diminish or eliminate pain in a
3 conscious patient;

4 (6) Parenteral shall mean administration other than
5 through the digestive tract, including, but not limited to,
6 intravenous administration; and

7 (7) Sedation shall mean a depressed level of
8 consciousness in which the patient's ability to independently
9 and continuously maintain an airway and respond appropriately
10 to physical stimulation or verbal command is retained and which
11 is produced by a pharmacologic or nonpharmacologic method or a
12 combination thereof.

13 Sec. 310. Section 71-1,104, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-1,104 (1) Each applicant for a license to practice
16 medicine and surgery shall:

17 (a) (i) Present proof that he or she is a graduate of
18 an accredited school or college of medicine, (ii) if a foreign
19 medical graduate, provide a copy of a permanent certificate issued
20 by the Educational Commission on Foreign Medical Graduates that
21 is currently effective and relates to such applicant or provide
22 such credentials as are necessary to certify that such foreign
23 medical graduate has successfully passed the Visa Qualifying
24 Examination or its successor or equivalent examination required
25 by the United States Department of Health and Human Services and
26 the United States Immigration and Naturalization Service, or (iii)
27 if a graduate of a foreign medical school who has successfully

1 completed a program of American medical training designated as
2 the Fifth Pathway and who additionally has successfully passed
3 the Educational Commission on Foreign Medical Graduates examination
4 but has not yet received the permanent certificate attesting to
5 the same, provide such credentials as certify the same to the
6 ~~Department of Health and Human Services Regulation and Licensure;~~
7 department;

8 (b) Present proof that he or she has served at least
9 one year of graduate medical education approved by the Board of
10 Medicine and Surgery or, if a foreign medical graduate, present
11 proof that he or she has served at least three years of graduate
12 medical education approved by the board;

13 (c) Pass a licensing examination designated by the board
14 and the department covering appropriate medical subjects; and

15 (d) Present proof satisfactory to the board that he or
16 she, within the three years immediately preceding the application
17 for licensure, (i) has been in the active practice of the
18 profession of medicine and surgery in some other state, a
19 territory, the District of Columbia, or Canada for a period of
20 one year, (ii) has had at least one year of graduate medical
21 education as described in subdivision (1)(b) of this section, (iii)
22 has completed continuing education in medicine and surgery approved
23 by the board, (iv) has completed a refresher course in medicine and
24 surgery approved by the board, or (v) has completed the special
25 purposes examination approved by the board.

26 (2) The department, upon the recommendation of the board,
27 may waive any requirement for more than one year of approved

1 graduate medical education, as set forth in subdivision (1)(b)
2 of this section, if the applicant has served at least one year
3 of graduate medical education approved by such board and if the
4 following conditions are met:

5 (a) The applicant meets all other qualifications for a
6 license to practice medicine and surgery;

7 (b) The applicant submits satisfactory proof that the
8 issuance of a license based on the waiver of the requirement of
9 more than one year of approved graduate medical education will not
10 jeopardize the health, safety, and welfare of the citizens of this
11 state; and

12 (c) The applicant submits proof that he or she will enter
13 into the practice of medicine in a health profession shortage area
14 designated as such by the Nebraska Rural Health Advisory Commission
15 immediately upon obtaining a license to practice medicine and
16 surgery based upon a waiver of the requirement for more than one
17 year of graduate medical education.

18 (3) A license issued on the basis of such a waiver shall
19 be subject to the limitation that the licensee continue in practice
20 in the health profession shortage area and such other limitations,
21 if any, deemed appropriate under the circumstances by the ~~Director~~
22 ~~of Regulation and Licensure~~, director, upon recommendation of the
23 board, which may include, but shall not be limited to, supervision
24 by a medical practitioner, training, education, and scope of
25 practice. After two years of practice under a limited license
26 issued on the basis of a waiver of the requirement of more than
27 one year of graduate medical education, a licensee may apply to the

1 department for removal of the limitations. The director, upon the
2 recommendation of the board, may grant or deny such application or
3 may continue the license with limitations.

4 (4) In addition to any other grounds for disciplinary
5 action against the license contained in the Uniform Licensing
6 Law, the department may take disciplinary action against a license
7 granted on the basis of a waiver of the requirement of more
8 than one year of graduate medical education for violation of the
9 limitations on the license. The department, upon the recommendation
10 of the board, shall adopt and promulgate rules and regulations for
11 the purpose of implementing and administering this section.

12 Sec. 311. Section 71-1,104.01, Revised Statutes
13 Cumulative Supplement, 2006, is amended to read:

14 71-1,104.01 (1) Except as provided in section 71-519
15 and except for newborn screening tests ordered by physicians to
16 comply with the law of the state in which the infant was born,
17 a physician or an individual to whom the physician has delegated
18 authority to perform a selected act, task, or function shall not
19 order a predictive genetic test without first obtaining the written
20 informed consent of the patient to be tested. Written informed
21 consent consists of a signed writing executed by the patient
22 or the representative of a patient lacking decisional capacity
23 that confirms that the physician or individual acting under the
24 delegated authority of the physician has explained, and the patient
25 or his or her representative understands:

26 (a) The nature and purpose of the predictive genetic
27 test;

1 (b) The effectiveness and limitations of the predictive
2 genetic test;

3 (c) The implications of taking the predictive genetic
4 test, including the medical risks and benefits;

5 (d) The future uses of the sample taken to conduct the
6 predictive genetic test and the genetic information obtained from
7 the predictive genetic test;

8 (e) The meaning of the predictive genetic test results
9 and the procedure for providing notice of the results to the
10 patient; and

11 (f) Who will have access to the sample taken to conduct
12 the predictive genetic test and the genetic information obtained
13 from the predictive genetic test, and the patient's right to
14 confidential treatment of the sample and the genetic information.

15 (2) ~~The Department of Health and Human Services~~
16 ~~Regulation and Licensure~~ department shall develop and distribute
17 a model informed consent form for purposes of this section. The
18 department shall include in the model form all of the information
19 required under subsection (1) of this section. The department
20 shall distribute the model form and all revisions to the form
21 to physicians and other individuals subject to this section upon
22 request and at no charge. The department shall review the model
23 form at least annually for five years after the first model form is
24 distributed and shall revise the model form if necessary to make
25 the form reflect the latest developments in medical genetics. The
26 department may also develop and distribute a pamphlet that provides
27 further explanation of the information included in the model form.

1 (3) If a patient or his or her representative signs a
2 copy of the model informed consent form developed and distributed
3 under subsection (2) of this section, the physician or individual
4 acting under the delegated authority of the physician shall give
5 the patient a copy of the signed informed consent form and shall
6 include the original signed informed consent form in the patient's
7 medical record.

8 (4) If a patient or his or her representative signs a
9 copy of the model informed consent form developed and distributed
10 under subsection (2) of this section, the patient is barred
11 from subsequently bringing a civil action for damages against
12 the physician, or an individual to whom the physician delegated
13 authority to perform a selected act, task, or function, who ordered
14 the predictive genetic test, based upon failure to obtain informed
15 consent for the predictive genetic test.

16 (5) A physician's duty to inform a patient under this
17 section does not require disclosure of information beyond what
18 a physician reasonably well-qualified to order and interpret
19 the predictive genetic test would know. A person acting under
20 the delegated authority of a physician shall understand and be
21 qualified to provide the information required by subsection (1) of
22 this section.

23 (6) For purposes of this section:

24 (a) Genetic information means information about a gene,
25 gene product, or inherited characteristic derived from a genetic
26 test;

27 (b) Genetic test means the analysis of human DNA, RNA,

1 chromosomes, epigenetic status, and those tissues, proteins, and
2 metabolites used to detect heritable or somatic disease-related
3 genotypes or karyotypes for clinical purposes. Tests of tissues,
4 proteins, and metabolites are included only when generally accepted
5 in the scientific and medical communities as being specifically
6 determinative of a heritable or somatic disease-related genetic
7 condition. Genetic test does not include a routine analysis,
8 including a chemical analysis, of body fluids or tissues unless
9 conducted specifically to determine a heritable or somatic
10 disease-related genetic condition. Genetic test does not include
11 a physical examination or imaging study. Genetic test does not
12 include a procedure performed as a component of biomedical research
13 that is conducted pursuant to federal common rule under 21 C.F.R.
14 parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed
15 on January 1, 2003; and

16 (c) Predictive genetic test means a genetic test for an
17 otherwise undetectable genotype or karyotype relating to the risk
18 for developing a genetically related disease or disability, the
19 results of which can be used to substitute a patient's prior risk
20 based on population data or family history with a risk based on
21 genotype or karyotype. Predictive genetic test does not include
22 diagnostic testing conducted on a person exhibiting clinical signs
23 or symptoms of a possible genetic condition. Predictive genetic
24 testing does not include prenatal genetic diagnosis, unless the
25 prenatal testing is conducted for an adult-onset condition not
26 expected to cause clinical signs or symptoms before the age of
27 majority.

1 Sec. 312. Section 71-1,107, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1,107 ~~The Department of Health and Human Services~~
4 ~~Regulation and Licensure~~ department may accept in lieu of
5 the examination provided in section 71-1,104 a certificate of
6 examination issued by the National Board of Medical Examiners of
7 the United States of America, but every applicant for a license
8 upon the basis of such certificate shall be required to pay the
9 fees prescribed for licenses issued in medicine and surgery without
10 examination based upon a license by examination held in another
11 state, territory, or the District of Columbia.

12 Sec. 313. Section 71-1,107.06, Reissue Revised Statutes
13 of Nebraska, is amended to read:

14 71-1,107.06 The duration of any permit issued pursuant
15 to sections 71-1,107.01 to 71-1,107.14 shall be determined by the
16 ~~Department of Health and Human Services Regulation and Licensure~~
17 department but in no case shall it be in excess of one year.
18 The permit may be renewed from time to time at the discretion
19 of the ~~Department of Health and Human Services Regulation and~~
20 ~~Licensure~~ department but in no case shall it be renewed for
21 more than five one-year periods. The department may issue to
22 all qualified graduates of accredited colleges of medicine or
23 accredited schools or colleges of osteopathic medicine, who are
24 eligible for the examination provided in section 71-1,104, and
25 who make application for such examination, a temporary educational
26 permit, without charge. Such permit shall be issued only for the
27 duration of the time between the date of the examination and

1 the date of licensure granted as a result of such examination.
2 Any person issued a temporary educational permit without charge
3 shall meet all requirements provided for in sections 71-1,107.01
4 to ~~71-1,107.13,~~ 71-1,107.14, except the required fee, and such
5 exemption is only for the period of time between the examination
6 date and the licensing date and for only those individuals who take
7 the examination as provided in section 71-1,104.

8 Sec. 314. Section 71-1,107.07, Reissue Revised Statutes
9 of Nebraska, is amended to read:

10 71-1,107.07 Before granting any temporary educational
11 permit, the ~~Department of Health and Human Services Regulation and~~
12 ~~Licensure~~ department shall ascertain by evidence satisfactory to
13 such board that an accredited hospital or school or college of
14 medicine in the State of Nebraska has requested the issuance of
15 a temporary educational permit for an applicant to serve as a
16 graduate student in its approved program for the period involved
17 and any application for the issuance of such permit shall be signed
18 by the applicant requesting that such permit be issued to him or
19 her and shall designate the specified approved graduate medical
20 educational program with respect to which such permit shall apply.

21 Sec. 315. Section 71-1,107.08, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 71-1,107.08 Before a visiting faculty permit shall be
24 issued, the ~~Department of Health and Human Services Regulation~~
25 ~~and Licensure~~ department shall determine on the basis of evidence
26 satisfactory to the department that an accredited school or college
27 of medicine in the State of Nebraska has requested issuance of

1 such visiting faculty permit for the individual involved to serve
2 as a member of the faculty of such school or college of medicine
3 and that the applicant for such permit has met the requirements of
4 sections 71-1,107.01 to 71-1,107.14. Any application for issuing a
5 visiting faculty permit shall be signed by the applicant to whom
6 such permit is to be issued and shall designate the accredited
7 school or college of medicine where such applicant proposes to
8 serve as a member of the faculty and shall outline the faculty
9 duties to be performed pursuant to the permit.

10 Sec. 316. Section 71-1,107.16, Reissue Revised Statutes
11 of Nebraska, is amended to read:

12 71-1,107.16 For purposes of sections 71-1,107.15 to
13 71-1,107.30, unless the context otherwise requires:

14 (1) Approved program means a program for the education of
15 physician assistants which the board formally approves;

16 (2) Board means the Board of Medicine and Surgery;

17 (3) Department means the Division of Public Health of the
18 Department of Health and Human Services; Regulation and Licensure;

19 (4) Physician assistant means any person who graduates
20 from a program approved by the Commission on Accreditation of
21 Allied Health Education Programs or its predecessor or successor
22 agency and the board, who satisfactorily completes a proficiency
23 examination, and whom the board, with the concurrence of the
24 department, approves to perform medical services under the
25 supervision of a physician or group of physicians approved by the
26 board to supervise such assistant;

27 (5) Supervision means the ready availability of the

1 supervising physician for consultation and direction of the
2 activities of the physician assistant. Contact with the supervising
3 physician by telecommunication shall be sufficient to show ready
4 availability if the board finds that such contact is sufficient to
5 provide quality medical care. The level of supervision may vary by
6 geographic location as provided in section 71-1,107.17;

7 (6) Trainee means any person who is currently enrolled in
8 an approved program;

9 (7) Proficiency examination means the initial proficiency
10 examination approved by the board for the licensure of physician
11 assistants, including, but not limited to, the examination
12 administered by the National Commission on Certification of
13 Physician Assistants or other national organization established for
14 such purpose that is recognized by the board;

15 (8) Supervising physician means a (a) board-approved
16 physician who utilizes an approved physician assistant or (b)
17 backup physician;

18 (9) Backup physician means a physician designated by
19 the supervising physician to ensure supervision of the physician
20 assistant in the supervising physician's absence. A backup
21 physician shall be subject to the same requirements imposed upon
22 the supervising physician when the backup physician is acting as a
23 supervising physician; and

24 (10) Committee means the Physician Assistant Committee
25 created in section 71-1,107.25.

26 Sec. 317. Section 71-1,132.05, Revised Statutes
27 Cumulative Supplement, 2006, is amended to read:

1 71-1,132.05 For purposes of the Nurse Practice Act,
2 unless the context otherwise requires:

3 (1) Executive director means the executive director of
4 the Board of Nursing;

5 (2) Board means the Board of Nursing;

6 (3) License by endorsement means the granting of active
7 status and the authority to practice to an individual who has been
8 licensed in another jurisdiction;

9 (4) License by examination means the authority to
10 practice is based on an assessment of minimum competency by such
11 means as the board may determine;

12 (5) License, for purposes of discipline, includes the
13 multistate licensure privilege to practice granted by the Nurse
14 Licensure Compact. If the multistate licensure privilege is
15 restricted due to disciplinary action by the home state, the
16 department may, upon request by the individual, grant the authority
17 to practice in this state;

18 (6) Licensed practitioner means a person lawfully
19 authorized to prescribe medications or treatments;

20 (7) The practice of nursing means the performance for
21 compensation or gratuitously of any act expressing judgment or
22 skill based upon a systematized body of nursing knowledge.
23 Such acts include the identification of and intervention in
24 actual or potential health problems of individuals, families,
25 or groups, which acts are directed toward maintaining health
26 status, preventing illness, injury, or infirmity, improving health
27 status, and providing care supportive to or restorative of life and

1 well-being through nursing assessment and through the execution of
2 nursing care and of diagnostic or therapeutic regimens prescribed
3 by any person lawfully authorized to prescribe. Each nurse is
4 directly accountable and responsible to the consumer for the
5 quality of nursing care rendered. Licensed nurses may use the
6 services of unlicensed individuals to provide assistance with
7 personal care and activities of daily living;

8 (8) The practice of nursing by a registered nurse means
9 assuming responsibility and accountability for nursing actions
10 which include, but are not limited to:

11 (a) Assessing human responses to actual or potential
12 health conditions;

13 (b) Establishing nursing diagnoses;

14 (c) Establishing goals and outcomes to meet identified
15 health care needs;

16 (d) Establishing and maintaining a plan of care;

17 (e) Prescribing nursing interventions to implement the
18 plan of care;

19 (f) Implementing the plan of care;

20 (g) Teaching health care practices;

21 (h) Delegating, directing, or assigning nursing
22 interventions that may be performed by others and that do not
23 conflict with the act;

24 (i) Maintaining safe and effective nursing care rendered
25 directly or indirectly;

26 (j) Evaluating responses to interventions, including, but
27 not limited to, performing physical and psychological assessments

1 of patients under restraint and seclusion as required by federal
2 law, if the registered nurse has been trained in the use of
3 emergency safety intervention;

4 (k) Teaching theory and practice of nursing;

5 (l) Conducting, evaluating, and utilizing nursing
6 research;

7 (m) Administering, managing, and supervising the practice
8 of nursing; and

9 (n) Collaborating with other health professionals in the
10 management of health care;

11 (9) The practice of nursing by a licensed practical nurse
12 means the assumption of responsibilities and accountability for
13 nursing practice in accordance with knowledge and skills acquired
14 through an approved program of practical nursing. A licensed
15 practical nurse may function at the direction of a licensed
16 practitioner or a registered nurse. Such responsibilities and
17 performances of acts must utilize procedures leading to predictable
18 outcomes and must include, but not be limited to:

19 (a) Contributing to the assessment of the health status
20 of individuals and groups;

21 (b) Participating in the development and modification of
22 a plan of care;

23 (c) Implementing the appropriate aspects of the plan of
24 care;

25 (d) Maintaining safe and effective nursing care rendered
26 directly or indirectly;

27 (e) Participating in the evaluation of response to

1 interventions; and

2 (f) Assigning and directing nursing interventions that
3 may be performed by others and that do not conflict with the act;

4 (10) Department means the Division of Public Health
5 of the Department of Health and Human Services; ~~Regulation and~~
6 ~~Licensure~~;

7 (11) Director means the Director of Public Health of the
8 Division of Public Health; ~~Regulation and Licensure~~;

9 (12) Inactive status means the designation given to a
10 licensee who requests this status and pays the fee. A licensee on
11 inactive status is issued a card indicating inactive status but
12 shall not practice;

13 (13) Lapsed status means the designation given to a
14 licensee who requests this status. A licensee on lapsed status
15 shall not practice;

16 (14) Expiration date means the date on which the license
17 expires has passed. The licensee whose license has expired shall
18 not practice;

19 (15) Suspended means the licensee's authority to practice
20 has been temporarily removed as a result of disciplinary action;

21 (16) Revoked means the licensee's authority to practice
22 has been removed as a result of disciplinary action. The licensee
23 may apply for reinstatement of his or her license two years or more
24 after the date of revocation;

25 (17) Reinstatement means the return to active status and
26 the restoration of the authority to practice to a licensee who was
27 previously licensed in this state;

1 (18) Verification means attesting to the current status
2 of an individual's license;

3 (19) Certification means attesting to the current status
4 of an individual's license, any disciplinary action taken, and the
5 means by which the individual was licensed;

6 (20) Probation means that the individual's authority to
7 practice is contingent on the licensee meeting specified conditions
8 imposed as a result of disciplinary action;

9 (21) Limited license means that certain restrictions have
10 been imposed on the individual's authority to practice as a result
11 of disciplinary action;

12 (22) Assignment means appointing or designating another
13 individual the responsibility for the performance of nursing
14 interventions;

15 (23) Delegation means transferring to another individual
16 the authority, responsibility, and accountability to perform
17 nursing interventions; and

18 (24) Direction means managing, guiding, and supervising
19 the nursing interventions performed by another individual.

20 Sec. 318. Section 71-1,132.53, Reissue Revised Statutes
21 of Nebraska, is amended to read:

22 71-1,132.53 ~~The Department of Health and Human Services~~
23 ~~Regulation and Licensure~~ department shall:

24 (1) Conduct hearings upon charges of suspension or
25 revocation of a license;

26 (2) Have power to issue subpoenas and compel the
27 attendance of witnesses and administer oaths to persons giving

1 testimony at hearings;

2 (3) Cause the prosecution of all persons violating the
3 Nurse Practice Act and have power to incur the necessary expense;
4 and

5 (4) Establish fees for credentialing activities under the
6 Nurse Practice Act as provided in section 71-162.

7 Sec. 319. Section 71-1,135.02, Reissue Revised Statutes
8 of Nebraska, is amended to read:

9 71-1,135.02 (1) (a) No optometrist licensed in this state,
10 except an optometrist who has been certified by the department
11 prior to April 30, 1987, or by another state with substantially
12 equivalent requirements for certification as determined by the
13 department upon recommendation of the Board of Optometry to
14 use topical ocular pharmaceutical agents for diagnostic purposes
15 prior to April 30, 1987, shall use topical ocular pharmaceutical
16 agents for diagnostic purposes authorized under subdivision (2)
17 of section 71-1,133 unless such person (i) submits to the board
18 the required fee and evidence of satisfactory completion of a
19 pharmacology course at an institution accredited by a regional or
20 professional accrediting organization which is recognized by the
21 United States Department of Education and approved by the Division
22 of Public Health of the Department of Health and Human Services,
23 ~~Regulation and Licensure,~~ (ii) passes an examination approved by
24 the department, and (iii) has been certified by the department upon
25 the recommendation of the board as qualified to use topical ocular
26 pharmaceutical agents for diagnostic purposes.

27 (b) The department may approve for certification pursuant

1 to subdivision (1)(a)(i) of this section a pharmacology course if
2 such course includes:

3 (i) A study of ocular anesthetics, mydriatics,
4 cycloplegics, ocular toxicity of pharmaceutical agents, ocular
5 allergies of ocular agents, and pharmacologic effects of ocular
6 drug substances;

7 (ii) The consideration of the mechanism of action of
8 anesthetics, cycloplegics, and mydriatics in human beings and the
9 uses of such substances in the diagnosis of occurring ocular
10 disorders;

11 (iii) At least one hundred hours of classroom education,
12 clinical training, and examination; and

13 (iv) The correlation of the utilization of pharmaceutical
14 agents and optical instrumentation and procedures.

15 (c) The department may approve for certification pursuant
16 to subdivision (1)(a)(ii) of this section an examination if such
17 examination is:

18 (i) Based upon the competencies taught in a pharmacology
19 course; and

20 (ii) Administered by an institution accredited by
21 a regional or professional accrediting organization which is
22 recognized by the United States Department of Education and
23 approved by the Division of Public Health of the Department of
24 Health and Human Services. ~~Regulation and Licensure.~~

25 (2)(a) No optometrist licensed in this state on or after
26 April 30, 1987, shall use topical ocular pharmaceutical agents for
27 therapeutic purposes authorized under subdivision (3) of section

1 71-1,133 unless such person (i) submits to the board the required
2 fee and evidence of satisfactory completion of a minimum of one
3 hundred hours since January 1, 1984, of which forty hours shall be
4 classroom education and sixty hours shall be supervised clinical
5 training as it applies to optometry with particular emphasis
6 on the examination, diagnosis, and treatment of the eye, ocular
7 adnexa, and visual system offered by a school or college approved
8 by the department, (ii) passes an examination approved by the
9 department, (iii) has been certified by the department upon the
10 recommendation of the board to use topical ocular pharmaceutical
11 agents for therapeutic purposes, and (iv) has been certified by
12 the department upon the recommendation of the board to use topical
13 ocular pharmaceutical agents for diagnostic purposes.

14 (b) The department may approve for certification pursuant
15 to subdivision (2)(a)(i) of this section a therapeutic course
16 or courses of instruction, from an institution accredited by
17 a regional or professional accrediting organization which is
18 recognized by the United States Department of Education, that
19 have been completed after January 1, 1984. Such course or courses
20 shall include, but not be limited to:

- 21 (i) Review of general pharmacology and therapeutics;
- 22 (ii) Review of ocular therapeutic pharmacology;
- 23 (iii) Diagnosis and treatment of diseases of the eye,
24 ocular adnexa, and visual system;
- 25 (iv) Diagnosis of corneal disease and trauma including
26 corneal foreign bodies;
- 27 (v) Diagnosis and treatment of anterior segment eye

1 diseases;

2 (vi) Clinical procedures related to the diagnosis and
3 treatment of the eye, ocular adnexa, and visual system;

4 (vii) Ocular manifestations of systemic disease;

5 (viii) Review of systemic disease syndromes;

6 (ix) Ocular therapy including management of acute
7 systemic emergencies; and

8 (x) Consultation criteria in ocular disease and trauma.

9 (3) (a) An optometrist who is licensed and certified to
10 use pharmaceutical agents for therapeutic purposes on July 15,
11 1998, who graduated from an accredited school of optometry prior
12 to January 1, 1996, shall complete the educational requirements
13 relative to the treatment of glaucoma, as determined by the board,
14 prior to January 1, 2000, and shall complete such educational
15 requirements prior to treating glaucoma. Failure to complete such
16 education prior to January 1, 2000, shall result in the revocation
17 of the licensee's certification to use pharmaceutical agents for
18 therapeutic purposes.

19 (b) An optometrist who applies for licensure on or
20 after July 15, 1998, who graduated from an accredited school
21 of optometry prior to January 1, 1996, shall complete the
22 educational requirements relative to the treatment of glaucoma,
23 as determined by the board, prior to being issued a license to
24 practice optometry.

25 (c) An optometrist who graduated from an accredited
26 school of optometry after January 1, 1996, shall be deemed to
27 have met the educational requirements for certification to use

1 pharmaceutical agents for therapeutic purposes which includes the
2 treatment and management of glaucoma.

3 Sec. 320. Section 71-1,136, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-1,136 No school of optometry shall be approved by the
6 Division of Public Health of the Department of Health and Human
7 Services Regulation and Licensure as an accredited school unless
8 the school is accredited by a regional or professional accrediting
9 organization which is recognized by the United States Department of
10 Education.

11 Sec. 321. Section 71-1,141, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-1,141 With respect to licenses issued pursuant to
14 sections 71-1,139 and 71-1,139.01 and any renewals thereof, the
15 ~~Department of Health and Human Services Regulation and Licensure~~
16 department shall designate the extent of such practice as follows:

- 17 (1) License to practice as an osteopathic physician; or
18 (2) License to practice osteopathic medicine and surgery.

19 Every license issued under sections 71-1,139 and
20 71-1,139.01 shall confer upon the holder thereof the right to
21 practice osteopathic medicine and surgery as taught in the schools
22 or colleges of osteopathic medicine recognized by the American
23 Osteopathic Association in the manner and to the extent provided
24 by such license.

25 Sec. 322. Section 71-1,142, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 71-1,142 For purposes of sections 71-1,142 to 71-1,151

1 and elsewhere in the Uniform Licensing Law, unless the context
2 otherwise requires:

3 (1) Practice of pharmacy means (a) the interpretation,
4 evaluation, and implementation of a medical order, (b) the
5 dispensing of drugs and devices, (c) drug product selection,
6 (d) the administration of drugs or devices, (e) drug utilization
7 review, (f) patient counseling, (g) the provision of pharmaceutical
8 care, and (h) the responsibility for compounding and labeling of
9 dispensed or repackaged drugs and devices, proper and safe storage
10 of drugs and devices, and maintenance of proper records. The active
11 practice of pharmacy means the performance of the functions set
12 out in this subdivision by a pharmacist as his or her principal or
13 ordinary occupation;

14 (2) Administer means to directly apply a drug or device
15 by injection, inhalation, ingestion, or other means to the body of
16 a patient or research subject;

17 (3) Administration means the act of (a) administering,
18 (b) keeping a record of such activity, and (c) observing,
19 monitoring, reporting, and otherwise taking appropriate action
20 regarding desired effect, side effect, interaction, and
21 contraindication associated with administering the drug or device;

22 (4) Board means the Board of Pharmacy;

23 (5) Caregiver means any person acting as an agent on
24 behalf of a patient or any person aiding and assisting a patient;

25 (6) Chart order means an order for a drug or device
26 issued by a practitioner for a patient who is in the hospital
27 where the chart is stored or for a patient receiving detoxification

1 treatment or maintenance treatment pursuant to section 28-412.
2 Chart order does not include a prescription;

3 (7) Compounding means the preparation of components into
4 a drug product (a) as the result of a practitioner's medical order
5 or initiative occurring in the course of practice based upon the
6 relationship between the practitioner, patient, and pharmacist or
7 (b) for the purpose of, or as an incident to, research, teaching,
8 or chemical analysis and not for sale or dispensing. Compounding
9 includes the preparation of drugs or devices in anticipation of
10 receiving medical orders based upon routine, regularly observed
11 prescribing patterns;

12 (8) Delegated dispensing means the practice of pharmacy
13 by which one or more pharmacists have jointly agreed, on a
14 voluntary basis, to work in conjunction with one or more persons
15 pursuant to sections 71-1,147.42 to 71-1,147.64 under a protocol
16 which provides that such person may perform certain dispensing
17 functions authorized by the pharmacist or pharmacists under certain
18 specified conditions and limitations;

19 (9) Deliver or delivery means to actually,
20 constructively, or attempt to transfer a drug or device from one
21 person to another, whether or not for consideration;

22 (10) Department means the Division of Public Health
23 of the Department of Health and Human Services; ~~Regulation and~~
24 ~~Licensure;~~

25 (11) Device means an instrument, apparatus, implement,
26 machine, contrivance, implant, in vitro reagent, or other similar
27 or related article, including any component, part, or accessory,

1 which is prescribed by a practitioner and dispensed by a pharmacist
2 or other person authorized by law to do so;

3 (12) Dialysis drug or device distributor means a
4 manufacturer or wholesaler who provides dialysis drugs, solutions,
5 supplies, or devices, to persons with chronic kidney failure for
6 self-administration at the person's home or specified address,
7 pursuant to a prescription;

8 (13) Dialysis drug or device distributor worker means a
9 person working for a dialysis drug or device distributor with a
10 delegated dispensing permit who has completed the approved training
11 and has demonstrated proficiency to perform the task or tasks of
12 assembling, labeling, or delivering drugs or devices pursuant to a
13 prescription;

14 (14) Dispense or dispensing means interpreting,
15 evaluating, and implementing a medical order, including preparing
16 and delivering a drug or device to a patient or caregiver
17 in a suitable container appropriately labeled for subsequent
18 administration to, or use by, a patient. Dispensing includes (a)
19 dispensing incident to practice, (b) dispensing pursuant to a
20 delegated dispensing permit, (c) dispensing pursuant to a medical
21 order, and (d) any transfer of a prescription drug or device to a
22 patient or caregiver other than by administering;

23 (15) Distribute means to deliver a drug or device, other
24 than by administering or dispensing;

25 (16) Facility means a health care facility as defined in
26 section 71-413;

27 (17) Hospital has the same meaning as in section 71-419;

1 (18) Person means an individual, corporation,
2 partnership, limited liability company, association, or other legal
3 entity;

4 (19) Labeling means the process of preparing and affixing
5 a label to any drug container or device container, exclusive
6 of the labeling by a manufacturer, packer, or distributor of
7 a nonprescription drug or commercially packaged legend drug or
8 device. Any such label shall include all information required by
9 federal and state law or regulation;

10 (20) Medical order means a prescription, a chart order,
11 or an order for pharmaceutical care issued by a practitioner;

12 (21) Pharmaceutical care means the provision of drug
13 therapy for the purpose of achieving therapeutic outcomes that
14 improve a patient's quality of life. Such outcomes include (a) the
15 cure of disease, (b) the elimination or reduction of a patient's
16 symptomatology, (c) the arrest or slowing of a disease process, or
17 (d) the prevention of a disease or symptomatology. Pharmaceutical
18 care includes the process through which the pharmacist works in
19 concert with the patient and his or her caregiver, physician, or
20 other professionals in designing, implementing, and monitoring a
21 therapeutic plan that will produce specific therapeutic outcomes
22 for the patient;

23 (22) Pharmacist means any person who is licensed by the
24 State of Nebraska to practice pharmacy;

25 (23) Pharmacy has the same meaning as in section 71-425;

26 (24) Drugs, medicines, and medicinal substances means (a)
27 articles recognized in the official United States Pharmacopoeia,

1 the Homeopathic Pharmacopoeia of the United States, the official
2 National Formulary, or any supplement to any of them, (b) articles
3 intended for use in the diagnosis, cure, mitigation, treatment, or
4 prevention of diseases in humans or animals, (c) articles, except
5 food, intended to affect the structure or any function of the
6 body of a human or an animal, (d) articles intended for use as a
7 component of any articles specified in subdivision (a), (b), or (c)
8 of this subdivision, except any device or its components, parts, or
9 accessories, and (e) prescription drugs or devices as defined in
10 subdivision (31) of this section;

11 (25) Patient counseling means the verbal communication
12 by a pharmacist, pharmacist intern, or practitioner, in a manner
13 reflecting dignity and the right of the patient to a reasonable
14 degree of privacy, of information to the patient or caregiver in
15 order to improve therapeutic outcomes by maximizing proper use of
16 prescription drugs and devices and also includes the duties set out
17 in section 71-1,147.35;

18 (26) Pharmacist in charge means a pharmacist who is
19 designated on a pharmacy license or designated by a hospital as
20 being responsible for the practice of pharmacy in the pharmacy
21 for which a pharmacy license is issued and who works within the
22 physical confines of such pharmacy for a majority of the hours
23 per week that the pharmacy is open for business averaged over a
24 twelve-month period or thirty hours per week, whichever is less;

25 (27) Pharmacist intern means a person who meets the
26 requirements of section 71-1,144;

27 (28) Pharmacy technician means an individual at least

1 eighteen years of age who is a high school graduate or officially
2 recognized by the State Department of Education as possessing the
3 equivalent degree of education, who has never been convicted of
4 any drug-related misdemeanor or felony, and who, under the written
5 control procedures and guidelines of an employing pharmacy, may
6 perform those functions which do not require professional judgment
7 and which are subject to verification to assist a pharmacist in the
8 practice of pharmacy;

9 (29) Practitioner means a certified registered nurse
10 anesthetist, a certified nurse midwife, a dentist, an optometrist,
11 a nurse practitioner, a physician assistant, a physician, a
12 podiatrist, or a veterinarian;

13 (30) Prescribe means to issue a medical order;

14 (31) Prescription drug or device or legend drug or
15 device means (a) a drug or device which is required under
16 federal law to be labeled with one of the following statements
17 prior to being dispensed or delivered: (i) Caution: Federal law
18 prohibits dispensing without prescription; (ii) Caution: Federal
19 law restricts this drug to use by or on the order of a licensed
20 veterinarian; or (iii) "Rx Only" or (b) a drug or device which is
21 required by any applicable federal or state law to be dispensed
22 pursuant only to a prescription or chart order or which is
23 restricted to use by practitioners only;

24 (32) Prescription means an order for a drug or device
25 issued by a practitioner for a specific patient, for emergency use,
26 or for use in immunizations. Prescription does not include a chart
27 order;

1 (33) Nonprescription drugs means nonnarcotic medicines or
2 drugs which may be sold without a medical order and which are
3 prepackaged for use by the consumer and labeled in accordance with
4 the requirements of the laws and regulations of this state and the
5 federal government;

6 (34) Public health clinic worker means a person in a
7 public health clinic with a delegated dispensing permit who has
8 completed the approved training and has demonstrated proficiency
9 to perform the task of dispensing authorized refills of oral
10 contraceptives pursuant to a written prescription;

11 (35) Public health clinic means the department, any
12 county, city-county, or multicounty health department, or any
13 private not-for-profit family planning clinic licensed as a health
14 clinic as defined in section 71-416;

15 (36) Signature means the name, word, or mark of a person
16 written in his or her own hand with the intent to authenticate a
17 writing or other form of communication or a digital signature which
18 complies with section 86-611 or an electronic signature;

19 (37) Supervision means the immediate personal guidance
20 and direction by the licensed pharmacist on duty in the facility of
21 the performance by a pharmacy technician of authorized activities
22 or functions subject to verification by such pharmacist, except
23 that when a pharmacy technician performs authorized activities or
24 functions to assist a pharmacist on duty in the facility when the
25 prescribed drugs or devices will be administered by a licensed
26 staff member or consultant or by a licensed physician assistant to
27 persons who are patients or residents of a facility, the activities

1 or functions of such pharmacy technician shall only be subject to
2 verification by a pharmacist on duty in the facility;

3 (38) Verification means the confirmation by a supervising
4 pharmacist of the accuracy and completeness of the acts, tasks,
5 or functions undertaken by a pharmacy technician to assist the
6 pharmacist in the practice of pharmacy;

7 (39) Written control procedures and guidelines means
8 the document prepared and signed by the pharmacist in charge
9 and approved by the board which specifies the manner in which
10 basic levels of competency of pharmacy technicians employed by
11 the pharmacy are determined, the manner in which supervision is
12 provided, the manner in which the functions of pharmacy technicians
13 are verified, the maximum ratio of pharmacy technicians to one
14 pharmacist used in the pharmacy, and guidelines governing the use
15 of pharmacy technicians and the functions which they may perform;

16 (40) Medical gas distributor means a person who dispenses
17 medical gases to a patient or ultimate user but does not include a
18 person who manufactures medical gases or a person who distributes,
19 transfers, delivers, dispenses, or sells medical gases to a person
20 other than a patient or ultimate user;

21 (41) Facsimile means a copy generated by a system that
22 encodes a document or photograph into electrical signals, transmits
23 those signals over telecommunications lines, and reconstructs the
24 signals to create an exact duplicate of the original document at
25 the receiving end;

26 (42) Electronic signature has the same definition found
27 in section 86-621; and

1 (43) Electronic transmission means transmission of
2 information in electronic form. Electronic transmission may
3 include computer-to-computer transmission or computer-to-facsimile
4 transmission.

5 Sec. 323. Section 71-1,143.01, Revised Statutes
6 Cumulative Supplement, 2006, is amended to read:

7 71-1,143.01 (1) Every applicant for examination and
8 licensure as a pharmacist shall be not less than twenty-one years
9 of age, of good moral character and temperate habits, a graduate
10 of an accredited pharmacy program, recognized by the board, except
11 that an applicant who is a graduate of a pharmacy program located
12 outside of the United States and which is not accredited shall be
13 deemed to have satisfied the requirement of being a graduate of
14 an accredited pharmacy program upon providing evidence satisfactory
15 to the board of graduation from such foreign pharmacy program and
16 upon successfully passing an equivalency examination approved by
17 the board.

18 (2) Every applicant shall (a) file proof of sufficient
19 internship experience in pharmacy, under the supervision of a
20 licensed pharmacist, as may be required by the board, which
21 shall comply with national requirements for internship as set
22 forth by the National Association of Boards of Pharmacy, (b) have
23 satisfactorily completed at least five years of college of which
24 at least three years shall have been in an accredited pharmacy
25 program, and (c) pass an examination satisfactory to the board.

26 (3) Proof of the qualifications for licensure prescribed
27 in this section shall be made to the satisfaction of the board,

1 substantiated by proper affidavits. In all cases the actual time
2 of attendance in an accredited pharmacy program shall be certified
3 by the appropriate school, college, or university authority by
4 the issuance of the degree granted to a graduate of such school,
5 college, or university. Service and experience in pharmacy under
6 the supervision of a licensed pharmacist, as required in this
7 section, shall be predominantly related to the practice of pharmacy
8 and shall include the keeping of records and the making of reports
9 required under state and federal statutes. The ~~Department of Health~~
10 ~~and Human Services Regulation and Licensure,~~ department, upon the
11 recommendation of the board, shall adopt and promulgate rules
12 and regulations as may be required to establish standards for
13 internship which shall comply with national requirements to effect
14 reciprocity with other states which have similar requirements for
15 licensure. The required fee for pharmacy internship shall accompany
16 the application.

17 Sec. 324. Section 71-1,147.26, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 71-1,147.26 The duration of any temporary educational
20 permit issued pursuant to sections 71-1,147.17 to 71-1,147.32 shall
21 be determined by the ~~Department of Health and Human Services~~
22 ~~Regulation and Licensure~~ department but in no case shall it be in
23 excess of one year. The permit may be renewed from time to time
24 at the discretion of the ~~Department of Health and Human Services~~
25 ~~Regulation and Licensure~~ department but in no case shall it be
26 renewed for more than five one-year periods.

27 Sec. 325. Section 71-1,147.28, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 71-1,147.28 Before granting any temporary educational
3 permit, the ~~Department of Health and Human Services Regulation~~
4 ~~and Licensure~~ department shall ascertain by evidence satisfactory
5 to the department that an accredited hospital or clinic or an
6 accredited school or college of pharmacy in the State of Nebraska
7 has requested the issuance of a temporary educational permit for an
8 applicant to serve as a graduate student in its approved program
9 for the period involved. Any application for the issuance of such
10 permit shall be signed by the applicant requesting that such permit
11 be issued to him or her and shall designate the specified approved
12 graduate pharmacy educational program with respect to which such
13 permit shall apply.

14 Sec. 326. Section 71-1,147.31, Reissue Revised Statutes
15 of Nebraska, is amended to read:

16 71-1,147.31 Any temporary educational permit granted
17 under the authority of sections 71-1,147.17 to 71-1,147.32
18 may be suspended, limited, or revoked by the department, upon
19 recommendation of the board, at any time upon a finding that the
20 reasons for issuing such permit no longer exist or that the person
21 to whom such permit has been issued is no longer qualified to hold
22 such permit or for any reason for which a pharmacist license could
23 be suspended, limited, or revoked. A hearing on the suspension,
24 limitation, or revocation of the temporary educational permit
25 by the department shall be held in the same manner as for the
26 denial of a pharmacist license. The final order of the ~~Director of~~
27 ~~Regulation and Licensure~~ director may be appealed, and the appeal

1 shall be in accordance with the Administrative Procedure Act.

2 Sec. 327. Section 71-1,147.33, Revised Statutes
3 Cumulative Supplement, 2006, is amended to read:

4 71-1,147.33 (1) A pharmacy technician shall only perform
5 tasks which do not require professional judgment and which are
6 subject to verification to assist a pharmacist in the practice of
7 pharmacy.

8 (2) The functions and tasks which shall not be performed
9 by pharmacy technicians or individuals dispensing pursuant to a
10 delegated dispensing permit include, but are not limited to:

11 (a) Receiving oral medical orders from a practitioner or
12 his or her agent;

13 (b) Providing patient counseling;

14 (c) Performing any evaluation or necessary clarification
15 of a medical order or performing any functions other than strictly
16 clerical functions involving a medical order;

17 (d) Supervising or verifying the tasks and functions of
18 pharmacy technicians;

19 (e) Interpreting or evaluating the data contained in a
20 patient's record maintained pursuant to section 71-1,147.35;

21 (f) Releasing any confidential information maintained by
22 the pharmacy;

23 (g) Performing any professional consultations; and

24 (h) Drug product selecting, with regard to an individual
25 medical order, in accordance with the Nebraska Drug Product
26 Selection Act.

27 (3) ~~The Director of Regulation and Licensure~~ director

1 shall, upon recommendation of the board, waive any of the
2 limitations in subsection (2) of this section for purposes of
3 a scientific study of the role of pharmacy technicians approved
4 by the board. Such study shall be based upon providing improved
5 patient care or enhanced pharmaceutical care. Any such waiver shall
6 state the length of the study and shall require that all study data
7 and results be made available to the board upon the completion of
8 the study. Nothing in this subsection shall require the board to
9 approve any study proposed by this subsection.

10 (4) The pharmacy employing pharmacy technicians shall
11 be responsible for the supervision and performance of such
12 technicians.

13 (5) The pharmacist in charge shall be responsible
14 for the practice of pharmacy and the establishment of written
15 control procedures and guidelines governing the qualifications,
16 onsite training, functions, supervision, and verification of the
17 performance of pharmacy technicians. The supervision of such
18 technicians at the place of employment shall be performed by
19 the licensed pharmacist who is on duty in the facility with the
20 pharmacy technicians.

21 (6) (a) Each pharmacy shall document, in a manner
22 and method specified in the written control procedures and
23 guidelines, the basic competence of the pharmacy technician prior
24 to performance of tasks and functions by such technician. Such
25 basic competence shall include, but not be limited to:

26 (i) Basic pharmaceutical nomenclature;

27 (ii) Metric system measures, both liquid and solid;

1 (iii) The meaning and use of Roman numerals;

2 (iv) Abbreviations used for dosages and directions to
3 patients;

4 (v) Basic medical terms, including terms relating to
5 ailments, diseases, or infirmities;

6 (vi) The use and operation of automated dispensing and
7 record-keeping systems if used by the employing pharmacy;

8 (vii) Applicable statutes, rules, and regulations
9 governing the preparation, compounding, dispensing, and
10 distribution of drugs or devices, record keeping with regard to
11 such functions, and the employment, use, and functions of pharmacy
12 technicians; and

13 (viii) The contents of the written control procedures and
14 guidelines.

15 (b) Written control procedures and guidelines shall
16 specify the functions that pharmacy technicians may perform in the
17 employing pharmacy. The written control procedures and guidelines
18 shall specify the means used by the employing pharmacy to verify
19 that the prescribed drug or device, the dosage form, and the
20 directions provided to the patient or caregiver conform to the
21 medical order authorizing the drug or device to be dispensed.

22 (c) The written control procedures and guidelines shall
23 specify the manner in which the verification made prior to
24 dispensing is documented.

25 (7) Each pharmacy or facility shall, before using
26 pharmacy technicians, file with the board a copy of its written
27 control procedures and guidelines and receive approval of its

1 written control procedures and guidelines from the board. The
2 board shall, within ninety days from the filing of such written
3 control procedures and guidelines, review and either approve or
4 disapprove them. The board shall notify the pharmacy or facility
5 of the approval or disapproval. The board or its representatives
6 shall have access to the approved written control procedures
7 and guidelines upon request. Any written control procedures and
8 guidelines for supportive pharmacy personnel that were filed by a
9 pharmacy and approved by the board prior to May 26, 1999, shall be
10 deemed to be approved and to apply to pharmacy technicians.

11 (8) Any hospital using supportive pharmacy personnel
12 prior to June 11, 1993, and using pharmacy technicians on or after
13 May 1, 2001, shall file a copy of written control procedures and
14 guidelines with the board by February 1, 2002, or such hospital
15 shall be in violation of subsection (2) of section 71-1,147.

16 (9) (a) If pharmacy technicians perform functions
17 requiring professional judgment and licensure as a pharmacist,
18 perform functions not specified under approved written control
19 procedures and guidelines, or perform functions without supervision
20 and such acts are known to the pharmacist supervising the pharmacy
21 technicians or the pharmacist in charge or are of such a nature
22 that they should have been known to a reasonable person, such acts
23 may be considered acts of unprofessional conduct on the part of the
24 pharmacist supervising the pharmacy technicians or the pharmacist
25 in charge pursuant to section 71-147 against whom disciplinary
26 measures may be taken.

27 (b) Acts described in subdivision (a) of this subsection

1 may be grounds for the department, upon the recommendation of the
2 board, to apply to the district court in the judicial district in
3 which the pharmacy is located for an order to cease and desist
4 from the performance of any unauthorized acts. On or at any time
5 after such application the court may, in its discretion, issue an
6 order restraining such pharmacy or its agents or employees from
7 the performance of unauthorized acts. After a full hearing the
8 court shall either grant or deny the application. Such order shall
9 continue until the court, after a like hearing, finds the basis for
10 such order has been removed.

11 Sec. 328. Section 71-1,147.44, Reissue Revised Statutes
12 of Nebraska, is amended to read:

13 71-1,147.44 (1) If the department determines to deny an
14 application for a delegated dispensing permit or to revoke, limit,
15 suspend, or refuse renewal of a delegated dispensing permit, the
16 department shall send to the applicant or permittee, by certified
17 mail, a notice setting forth the particular reasons for the
18 determination. The denial, limitation, suspension, revocation, or
19 refusal of renewal shall become final thirty days after the mailing
20 of the notice unless the applicant or permittee, within such
21 thirty-day period, requests a hearing in writing. The applicant
22 or permittee shall be given a fair hearing before the department
23 and may present such evidence as may be proper. On the basis of
24 such evidence, the determination involved shall be affirmed or set
25 aside, and a copy of such decision setting forth the finding of
26 facts and the particular reasons upon which it is based shall be
27 sent by certified mail to the applicant or permittee. The decision

1 shall become final thirty days after a copy of such decision is
2 mailed unless the applicant or permittee within such thirty-day
3 period appeals the decision pursuant to section 71-1,147.46.

4 (2) The procedure governing hearings authorized by this
5 section shall be in accordance with rules and regulations adopted
6 and promulgated by the department. A full and complete record shall
7 be kept of all proceedings. Witnesses may be subpoenaed by either
8 party and shall be allowed a fee at a rate prescribed by the
9 rules and regulations adopted and promulgated by the department.
10 The proceedings shall be summary in nature and triable as equity
11 actions. Affidavits may be received in evidence in the discretion
12 of the ~~Director of Regulation and Licensure~~ director. The
13 department shall have the power to administer oaths, to subpoena
14 witnesses and compel their attendance, and to issue subpoenas duces
15 tecum and require the production of books, accounts, and documents
16 in the same manner and to the same extent as the district courts of
17 the state. Depositions may be used by either party.

18 Sec. 329. Section 71-1,147.45, Reissue Revised Statutes
19 of Nebraska, is amended to read:

20 71-1,147.45 (1) Upon the completion of any hearing
21 pursuant to section 71-1,147.44, the ~~Director of Regulation and~~
22 ~~Licensure~~ director shall have the authority through entry of an
23 order to exercise in his or her discretion any or all of the
24 following powers:

- 25 (a) Issue a censure against the permittee;
26 (b) Place the permittee on probation;
27 (c) Place a limitation or limitations on the permit and

1 upon the right of the permittee to dispense drugs or devices to the
2 extent, scope, or type of operation, for such time, and under such
3 conditions as the director finds necessary and proper. The director
4 shall consult with the board in all instances prior to issuing an
5 order of limitation;

6 (d) Impose a civil penalty not to exceed twenty thousand
7 dollars. The amount of the civil penalty, if any, shall be based
8 on the severity of the violation. If any violation is a repeated
9 or continuing violation, each violation or each day a violation
10 continues shall constitute a separate violation for the purpose of
11 computing the applicable civil penalty, if any;

12 (e) Enter an order of suspension of the permit;

13 (f) Enter an order of revocation of the permit; and

14 (g) Dismiss the action.

15 (2) The permittee shall not dispense drugs or devices
16 after a permit is revoked or during the time for which the permit
17 is suspended. If a permit is suspended, the suspension shall be for
18 a definite period of time to be fixed by the director. The permit
19 shall be automatically reinstated upon the expiration of such
20 period if the current renewal fees have been paid. If the permit
21 is revoked, the revocation shall be permanent, except that at any
22 time after the expiration of two years, application may be made
23 for reinstatement by any permittee whose permit has been revoked.
24 The application shall be addressed to the director but may not be
25 received or filed by him or her unless accompanied by a written
26 recommendation of reinstatement by the board. The department may
27 adopt and promulgate the necessary rules and regulations concerning

1 notice and hearing of such application.

2 (3) Any civil penalty assessed and unpaid under this
3 section shall constitute a debt to the State of Nebraska which
4 may be collected in the manner of a lien foreclosure or sued for
5 and recovered in a proper form of action in the name of the state
6 in the district court of the county in which the violator resides
7 or owns property. The department shall remit any collected civil
8 penalty to the State Treasurer, within thirty days after receipt,
9 for distribution in accordance with Article VII, section 5, of
10 the Constitution of Nebraska. The department shall within thirty
11 days after receipt remit any collected civil penalty to the State
12 Treasurer for credit to the permanent school fund.

13 Sec. 330. Section 71-1,147.48, Reissue Revised Statutes
14 of Nebraska, is amended to read:

15 71-1,147.48 (1) Upon recommendation of the board, the
16 ~~Director of Regulation and Licensure~~ director shall approve a
17 formulary to be used by individuals dispensing pursuant to a
18 delegated dispensing permit. A formulary shall consist of a list
19 of drugs or devices appropriate to delegated dispensing activities
20 authorized by the delegated dispensing permit. Except as otherwise
21 provided in this section, if the board finds that a formulary would
22 be unnecessary to protect the public health and welfare and promote
23 public convenience and necessity, the board shall recommend that no
24 formulary be approved.

25 (2) (a) Upon the recommendation of the board, which shall
26 be based on the recommendations of the Public Health Clinic
27 Formulary Advisory Committee, the director shall approve the

1 formulary to be used by public health clinics dispensing pursuant
2 to a delegated dispensing permit.

3 (b) The formulary for a public health clinic shall
4 consist of a list of drugs and devices for contraception,
5 sexually transmitted diseases, and vaginal infections which may
6 be dispensed and stored, patient instruction requirements which
7 shall include directions on the use of drugs and devices, potential
8 side effects and drug interactions, criteria for contacting the
9 on-call pharmacist, and accompanying written patient information.

10 (c) In no event shall the director approve for inclusion
11 in the formulary any drug or device not approved by the committee
12 or exclude any of the provisions for patient instruction approved
13 by the board.

14 (d) Drugs and devices with the following characteristics
15 shall not be eligible to be included in the formulary:

16 (i) Controlled substances;

17 (ii) Drugs with significant dietary interactions;

18 (iii) Drugs with significant drug-drug interactions; and

19 (iv) Drugs or devices with complex counseling profiles.

20 (3) (a) Upon the recommendation of the board, the director
21 shall approve a formulary to be used by dialysis drug or device
22 distributors.

23 (b) The formulary for a dialysis drug or device
24 distributor shall consist of a list of drugs, solutions, supplies,
25 and devices for the treatment of chronic kidney failure which may
26 be dispensed and stored.

27 (c) In no event shall the director approve for inclusion

1 in the formulary any drug or device not approved by the board.

2 (d) Controlled substances shall not be eligible to be
3 included in the formulary.

4 Sec. 331. Section 71-1,147.53, Reissue Revised Statutes
5 of Nebraska, is amended to read:

6 71-1,147.53 Under a delegated dispensing permit for a
7 public health clinic, approved formulary drugs and devices may
8 be dispensed by a public health clinic worker or a health care
9 professional licensed in Nebraska to practice medicine and surgery
10 or licensed in Nebraska as a registered nurse, licensed practical
11 nurse, or physician assistant without the onsite services of a
12 pharmacist if:

13 (1) The initial dispensing of all prescriptions for
14 approved formulary drugs and devices is conducted by a health care
15 professional licensed in Nebraska to practice medicine and surgery
16 or pharmacy or licensed in Nebraska as a registered nurse, licensed
17 practical nurse, or physician assistant;

18 (2) The drug or device is dispensed pursuant to a
19 prescription written on site by a practitioner;

20 (3) The only prescriptions to be refilled under
21 the delegated dispensing permit are prescriptions for oral
22 contraceptives;

23 (4) Prescriptions are accompanied by patient instructions
24 and written information approved by the ~~Director of Regulation and~~
25 ~~Licensure~~; director;

26 (5) The dispensing of authorized refills of oral
27 contraceptives is done by a licensed health care professional

1 listed in subdivision (1) of this section or by a public health
2 clinic worker;

3 (6) All drugs or devices are prepackaged by the
4 manufacturer or at a public health clinic by a pharmacist into
5 the quantity to be prescribed and dispensed at the public health
6 clinic;

7 (7) All drugs and devices stored, received, or dispensed
8 under the authority of public health clinics are properly labeled
9 at all times. For purposes of this subdivision, properly labeled
10 means that the label affixed to the container prior to dispensing
11 contains the following information:

12 (a) The name of the manufacturer;

13 (b) The lot number and expiration date from the
14 manufacturer or, if prepackaged by a pharmacist, the lot number and
15 calculated expiration date. Calculated expiration date means the
16 expiration date on the manufacturer's container or one year from
17 the date the drug is repackaged, whichever is earlier;

18 (c) Directions for patient use;

19 (d) The quantity of drug in the container;

20 (e) The name, strength, and dosage form of the drug; and

21 (f) Auxiliary labels as needed for proper adherence to
22 any prescription;

23 (8) The following additional information is added to the
24 label of each container when the drug or device is dispensed:

25 (a) The patient's name;

26 (b) The name of the prescribing health care professional;

27 (c) The prescription number;

1 (d) The date dispensed; and

2 (e) The name and address of the public health clinic;

3 (9) The only drugs and devices allowed to be dispensed or
4 stored by public health clinics appear on the formulary approved
5 pursuant to section 71-1,147.48; and

6 (10) At any time that dispensing is occurring from a
7 public health clinic, the delegating pharmacist for the public
8 health clinic or on-call pharmacist in Nebraska is available,
9 either in person or by telephone, to answer questions from
10 clients, staff, public health clinic workers, or volunteers. This
11 availability shall be confirmed and documented at the beginning
12 of each day that dispensing will occur. The delegating pharmacist
13 or on-call pharmacist shall inform the public health clinic if
14 he or she will not be available during the time that his or
15 her availability is required. If a pharmacist is unavailable, no
16 dispensing shall occur.

17 Sec. 332. Section 71-1,147.59, Reissue Revised Statutes
18 of Nebraska, is amended to read:

19 71-1,147.59 (1) The board may appoint formulary advisory
20 committees as deemed necessary for the determination of formularies
21 for delegated dispensing permittees.

22 (2) The Public Health Clinic Formulary Advisory Committee
23 is created. The committee shall consist of eight members as
24 follows:

25 (a) Two members designated by the board;

26 (b) Two members who are employees of the department
27 with knowledge of and interest in reproductive health and sexually

1 transmitted diseases;

2 (c) Two members who are licensed pharmacists in this
3 state and who are selected by the ~~Director of Regulation and~~
4 ~~Licensure~~ director. The Nebraska Pharmacists Association may
5 submit to the director a list of five persons of recognized ability
6 in the profession. If such a list is submitted, the director shall
7 consider the names on such list and may appoint one or more of
8 the persons so named. The director may appoint any qualified person
9 even if such person is not named on the list submitted by the
10 association; and

11 (d) Two members who are employees of public health
12 clinics which hold or will hold a delegated dispensing permit and
13 who are selected by the director from names recommended by such
14 public health clinics.

15 (3) Designations and recommendations shall be made and
16 submitted to the director in July prior to the third quarter
17 meeting of the committee. Members shall serve for terms of two
18 years each beginning with the third quarter meeting. Members may
19 serve for consecutive terms as approved by the director. The
20 director may remove a member of the committee for inefficiency,
21 neglect of duty, or misconduct in office.

22 Sec. 333. Section 71-1,154, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-1,154 When used in the Nebraska Veterinary Practice
25 Act and elsewhere in the Uniform Licensing Law, unless the context
26 otherwise requires:

27 (1) Animal means any animal other than man and includes

1 birds, fish, and reptiles, wild or domestic, living or dead, except
2 domestic poultry;

3 (2) Veterinary medicine and surgery includes veterinary
4 surgery, obstetrics, dentistry, and all other branches or
5 specialties of veterinary medicine;

6 (3) Practice of veterinary medicine and surgery means:

7 (a) To diagnose, treat, correct, change, relieve, or
8 prevent animal disease, deformity, defect, injury, or other
9 physical or mental conditions, including the prescription or
10 administration of any drug, medicine, biologic, apparatus,
11 application, anesthetic, or other therapeutic or diagnostic
12 substance or technique, and the use of any manual or mechanical
13 procedure for testing for pregnancy or for correcting sterility or
14 infertility. The acts described in this subdivision shall not be
15 done without a valid veterinarian-client-patient relationship;

16 (b) To render advice or recommendation with regard to any
17 act described in subdivision (a) of this subdivision;

18 (c) To represent, directly or indirectly, publicly or
19 privately, an ability and willingness to do any act described in
20 subdivision (a) of this subdivision; and

21 (d) To use any title, words, abbreviation, or letters
22 in a manner or under circumstances which induce the belief that
23 the person using them is qualified to do any act described in
24 subdivision (a) of this subdivision;

25 (4) Veterinarian means a person who has received a
26 ~~doctor's degree in veterinary medicine~~ the degree of Doctor of
27 Veterinary Medicine or its equivalent from an accredited school of

1 veterinary medicine; ~~or its equivalent;~~

2 (5) Licensed veterinarian means a person who is validly
3 and currently licensed to practice veterinary medicine and surgery
4 in this state;

5 (6) Veterinarian-client-patient relationship means that:

6 (a) The veterinarian has assumed the responsibility for
7 making clinical judgments regarding the health of the animal and
8 the need for medical treatment, and the client has agreed to follow
9 the veterinarian's instructions;

10 (b) The veterinarian has sufficient knowledge of the
11 animal to initiate at least a general or preliminary diagnosis
12 of the medical condition of the animal. This means that the
13 veterinarian has recently seen and is personally acquainted with
14 the keeping and care of the animal by virtue of an examination of
15 the animal or by medically appropriate and timely visits to the
16 premises where the animal is kept; and

17 (c) The veterinarian is readily available or has arranged
18 for emergency coverage and for followup evaluation in the event of
19 adverse reactions or the failure of the treatment regimen;

20 (7) Accredited school of veterinary medicine within the
21 meaning of the Nebraska Veterinary Practice Act means:

22 (a) One approved by the department upon the
23 recommendation of the board;

24 (b) A veterinary college or division of a university or
25 college that offers the degree of Doctor of Veterinary Medicine or
26 its equivalent; and

27 (c) One that conforms to the standards required for

1 accreditation by the American Veterinary Medical Association;

2 (8) Person means any individual, firm, partnership,
3 limited liability company, association, joint venture, cooperative
4 and corporation, or any other group or combination acting in
5 concert; and whether or not acting as a principal, trustee,
6 fiduciary, receiver, or as any other kind of legal or personal
7 representative, or as the successor in interest, assignee,
8 agent, factor, servant, employee, director, officer, or any other
9 representative of such person;

10 (9) Board means the Board of Veterinary Medicine and
11 Surgery;

12 (10) Department means the Division of Public Health
13 of the Department of Health and Human Services; ~~Regulation and~~
14 ~~Licensure;~~

15 (11) Veterinary technician means an individual who has
16 met one of the requirements of subsection (1) of section 71-1,165;

17 (12) Licensed veterinary technician means a veterinary
18 technician who is validly and currently licensed as a veterinary
19 technician in this state. Only a licensed veterinary technician may
20 advertise or offer his or her services in a manner calculated to
21 lead others to believe that he or she is a veterinary technician;

22 (13) Unlicensed assistant means an individual who is
23 not a veterinarian or a veterinary technician who is working in
24 veterinary medicine;

25 (14) Supervisor means a licensed veterinarian or licensed
26 veterinary technician as required by statute or rule or regulation
27 for the particular delegated task being performed by a veterinary

1 technician or unlicensed assistant;

2 (15) Immediate supervision means that the supervisor is
3 on the premises and is in direct eyesight and hearing range of
4 the animal and the veterinary technician or unlicensed assistant
5 who is treating the animal and the animal has been examined by
6 a veterinarian at such times as acceptable veterinary practice
7 requires consistent with the particular delegated animal health
8 care task;

9 (16) Direct supervision means that the supervisor is
10 on the premises and is available to the veterinary technician or
11 unlicensed assistant who is treating the animal and the animal
12 has been examined by a veterinarian at such times as acceptable
13 veterinary practice requires consistent with the particular
14 delegated animal health care task; and

15 (17) Indirect supervision means that the supervisor is
16 not on the premises but is easily accessible and has given
17 written or oral instructions for treatment of the animal and
18 the animal has been examined by a veterinarian at such times
19 as acceptable veterinary practice requires consistent with the
20 particular delegated animal health care task.

21 Sec. 334. Section 71-1,190.01, Reissue Revised Statutes
22 of Nebraska, is amended to read:

23 71-1,190.01 Commencing July 1, 1985, all audiologists
24 and speech-language pathologists, except those specified in section
25 71-1,187, shall be required to be licensed by the ~~Department of~~
26 ~~Health and Human Services Regulation and Licensure.~~ department.

27 Sec. 335. Section 71-1,206.05, Reissue Revised Statutes

1 of Nebraska, is amended to read:

2 71-1,206.05 Department shall mean the Division of Public
3 Health of the Department of Health and Human Services. ~~Regulation~~
4 ~~and Licensure.~~

5 Sec. 336. Section 71-1,206.18, Revised Statutes
6 Cumulative Supplement, 2006, is amended to read:

7 71-1,206.18 Except as provided in this section, a person
8 licensed as a psychologist under the law in effect immediately
9 prior to September 1, 1994, but not certified in clinical
10 psychology:

11 (1) Shall be issued a special license to practice
12 psychology that continues existing requirements for supervision.
13 Any psychological practice that involves the diagnosis and
14 treatment of major mental and emotional disorders by a person
15 holding a special license shall be done under the supervision of
16 a licensed psychologist approved by the board in accordance with
17 regulations developed by the board. A psychologist licensed under
18 this subdivision shall not supervise mental health practitioners
19 or independently evaluate persons under the Nebraska Mental Health
20 Commitment Act or the Sex Offender Commitment Act. Supervisory
21 relationships shall be registered with the board by a notarized
22 letter signed by both the supervisor and supervisee. The letter
23 shall contain:

24 (a) A general description of the supervisee's practice
25 and the plan of supervision;

26 (b) A statement by the supervisor that he or she has
27 the necessary experience and training to supervise this area of

1 practice; and

2 (c) A statement by the supervisor that he or she accepts
3 the legal and professional responsibility for the supervisee's
4 practice with individuals having major mental and emotional
5 disorders.

6 Psychologists practicing with special licenses may
7 continue to use the title licensed psychologist but shall
8 disclose supervisory relationships to clients or patients for whom
9 supervision is required and to third-party payors when relevant.
10 Psychologists who wish to continue supervisory relationships
11 existing immediately prior to September 1, 1994, with qualified
12 physicians may do so if a letter as described in this subdivision
13 is received by the board within three months after such date;

14 (2) May apply for licensure before December 1, 1995,
15 by demonstrating that he or she has rendered psychological
16 diagnostic and treatment services as the major element of his or
17 her employment in an educational, correctional, or health care
18 setting for at least four years after licensure. A psychologist
19 demonstrating such experience shall be deemed to have met
20 equivalent requirements for licensure to those required by section
21 71-1,206.15 and shall be eligible for renewal of licensure in
22 accordance with the Uniform Licensing Law. For purposes of this
23 subdivision:

24 (a) Educational settings shall be those which are part
25 of a university or state college and those regulated by the State
26 Department of Education;

27 (b) Correctional settings shall be those under the

1 jurisdiction of the Department of Correctional Services; and

2 (c) Health care settings shall be hospitals, skilled
3 nursing facilities, clinics, and mental health centers licensed
4 by the Division of Public Health of the Department of Health
5 and Human Services ~~Regulation and Licensure~~ and accredited by
6 the Joint Commission on Hospital Accreditation, by the Commission
7 on Accreditation of Rehabilitation Facilities, by the Department
8 of Health and Human Services, or by a similar or an equivalent
9 accrediting body as determined by the board.

10 The four-year period shall be continuous and represent
11 four years of full-time employment or a combination of half-time
12 and full-time employment that totals four years. For purposes
13 of this subdivision, year shall mean a calendar year except
14 for educational settings that may define the employment year in
15 nine-month increments. In no case shall an applicant receive four
16 years of credit for experience accrued in less than four calendar
17 years; or

18 (3) May apply for licensure within three months of
19 September 1, 1994, by demonstrating that he or she has been
20 employed as full-time faculty in a program of graduate education
21 in psychology approved by the American Psychological Association
22 for a period not less than five years after licensure. A
23 person demonstrating such employment shall be deemed to have
24 met equivalent requirements for licensure under section 71-1,206.15
25 and shall be eligible for renewal of licensure in accordance with
26 the Uniform Licensing Law.

27 A person licensed but not certified to practice clinical

1 psychology under the law in effect immediately prior to September
2 1, 1994, who has failed the examination for clinical certification
3 shall not be eligible to apply under subdivisions (2) and (3)
4 of this section. The board may deny an application under such
5 subdivisions if the applicant has had any action taken against him
6 or her for violations of the laws licensing psychologists by the
7 board or the boards of other jurisdictions. Such person shall be
8 granted a special license under subdivision (1) of this section.

9 Sec. 337. Section 71-1,238, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1,238 For purposes of sections 71-1,238 to 71-1,242,
12 unless the context otherwise requires:

13 (1) Athletic trainer means a person who is responsible
14 for the prevention, emergency care, first aid, treatment, and
15 rehabilitation of athletic injuries under guidelines established
16 with a licensed physician and who is licensed to perform the
17 functions set out in section 71-1,240. When athletic training
18 is provided in a hospital outpatient department or clinic or
19 an outpatient-based medical facility, the athletic trainer will
20 perform the functions described in section 71-1,240 with a referral
21 from a licensed physician for athletic training;

22 (2) Athletic training means the prevention, evaluation,
23 emergency care, first aid, treatment, and rehabilitation of
24 athletic injuries utilizing the treatments set out in section
25 71-1,240;

26 (3) Athletic injuries means the types of musculoskeletal
27 injury or common illness and conditions which athletic trainers are

1 educated to treat or refer, incurred by athletes, which prevent or
2 limit participation in sports or recreation;

3 (4) Board means the Board of Athletic Training;

4 (5) Department means the Division of Public Health of the
5 Department of Health and Human Services; ~~Regulation and Licensure;~~
6 and

7 (6) Practice site means the location where the athletic
8 trainer practices athletic training.

9 Sec. 338. Section 71-1,290, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1,290 The department shall issue a license, signed by
12 the ~~Director of Regulation and Licensure,~~ director, to each person
13 who is qualified to be a licensed medical nutrition therapist.

14 Sec. 339. Section 71-1,312, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-1,312 No person shall engage in mental health practice
17 or hold himself or herself out as a mental health practitioner
18 unless he or she is licensed for such purpose pursuant to the
19 Uniform Licensing Law, except that this section shall not be
20 construed to prevent:

21 (1) Qualified members of other professions who are
22 licensed, certified, or registered by this state from practice
23 of any mental health activity consistent with the scope of practice
24 of their respective professions;

25 (2) Alcohol and drug counselors who are licensed by
26 the Division of Public Health of the Department of Health and
27 Human Services ~~Regulation and Licensure~~ and problem gambling

1 counselors who are certified by the Department of Health and
2 Human Services from practicing their profession. Such exclusion
3 shall include students training and working under the supervision
4 of an individual qualified under section 71-1,356;

5 (3) Any person employed by an agency, bureau, or division
6 of the federal government from discharging his or her official
7 duties, except that if such person engages in mental health
8 practice in this state outside the scope of such official duty
9 or represents himself or herself as a licensed mental health
10 practitioner, he or she shall be licensed;

11 (4) Teaching or the conduct of research related to mental
12 health services or consultation with organizations or institutions
13 if such teaching, research, or consultation does not involve the
14 delivery or supervision of mental health services to individuals
15 or groups of individuals who are themselves, rather than a third
16 party, the intended beneficiaries of such services;

17 (5) The delivery of mental health services by:

18 (a) Students, interns, or residents whose activities
19 constitute a part of the course of study for medicine, psychology,
20 nursing, school psychology, social work, clinical social work,
21 counseling, marriage and family therapy, or other health care or
22 mental health service professions; or

23 (b) Individuals seeking to fulfill postgraduate
24 requirements for licensure when those individuals are supervised by
25 a licensed professional consistent with the applicable regulations
26 of the appropriate professional board;

27 (6) Duly recognized members of the clergy from providing

1 mental health services in the course of their ministerial duties
2 and consistent with the codes of ethics of their profession if they
3 do not represent themselves to be mental health practitioners;

4 (7) The incidental exchange of advice or support by
5 persons who do not represent themselves as engaging in mental
6 health practice, including participation in self-help groups when
7 the leaders of such groups receive no compensation for their
8 participation and do not represent themselves as mental health
9 practitioners or their services as mental health practice;

10 (8) Any person providing emergency crisis intervention
11 or referral services or limited services supporting a service plan
12 developed by and delivered under the supervision of a licensed
13 mental health practitioner, licensed physician, or a psychologist
14 licensed to engage in the practice of psychology if such persons
15 are not represented as being licensed mental health practitioners
16 or their services are not represented as mental health practice; or

17 (9) Staff employed in a program designated by an agency
18 of state government to provide rehabilitation and support services
19 to individuals with mental illness from completing a rehabilitation
20 assessment or preparing, implementing, and evaluating an individual
21 rehabilitation plan.

22 Sec. 340. Section 71-1,339, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 71-1,339 The clerk of any county or district court
25 in this state shall report to the Division of Public Health
26 of the Department of Health and Human Services ~~Regulation and~~
27 ~~Licensure~~ the conviction of any person licensed, certified, or

1 registered by the department under the Advanced Practice Registered
2 Nurse Licensure Act, the Certified Registered Nurse Anesthetist
3 Act, the Clinical Nurse Specialist Practice Act, the Emergency
4 Medical Services Act, the Licensed Practical Nurse-Certified Act,
5 the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska
6 Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner
7 Act, the Occupational Therapy Practice Act, the Uniform Controlled
8 Substances Act, the Uniform Licensing Law, the Wholesale Drug
9 Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701
10 to 71-4719, or 71-6053 to 71-6068 of any felony or of any
11 misdemeanor involving the use, sale, distribution, administration,
12 or dispensing of a controlled substance, alcohol or chemical
13 impairment, or substance abuse and shall also report a judgment
14 against any such licensee, certificate holder, or registrant
15 arising out of a claim of professional liability. The Attorney
16 General or city or county prosecutor prosecuting any such criminal
17 action and plaintiff in any such civil action shall provide the
18 court with information concerning the licensure, certification, or
19 registration of the defendant or party. Notice to the department
20 shall be filed within thirty days after the date of conviction or
21 judgment in a manner agreed to by the ~~Director of Regulation and~~
22 ~~Licensure~~ Director of Public Health of the division and the State
23 Court Administrator.

24 Sec. 341. Section 71-1,367, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 71-1,367 Department means the Division of Public Health
27 of the Department of Health and Human Services. ~~Regulation and~~

1 ~~Licensure.~~

2 Sec. 342. Section 71-354, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-354 Department shall mean the Division of Public
5 Health of the Department of Health and Human Services. ~~Regulation~~
6 ~~and Licensure.~~

7 Sec. 343. Section 71-390, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-390 (1) Examinations approved by the board may
10 be national standardized examinations, but in all cases the
11 examinations shall be related to the knowledge and skills necessary
12 to perform the practices being examined and shall be related to
13 the curricula required to be taught in schools of cosmetology or
14 schools of electrolysis.

15 (2) The board shall fix the time and place of each
16 examination no less than one year in advance. At least two
17 examinations shall be given annually. All examinations shall be
18 conducted in the city of Lincoln unless ordered otherwise by the
19 department.

20 (3) If examinations are administered directly by the
21 department, the examination shall be administered by a chief
22 examiner who shall be an employee of the department. Persons
23 serving as examiners for practical examinations administered
24 directly by the department shall hold current licenses in the field
25 of practice being examined or in cosmetology, except that examiners
26 for instructors' examinations shall each hold an instructor's
27 license, either active or inactive.

1 (4) Practical examinations shall be conducted in such a
2 manner that the identity of the applicant is not disclosed to the
3 examiners in any way.

4 (5) In order to successfully complete the examination,
5 an applicant shall obtain an average grade of seventy-five percent
6 on the written examination and an average grade of seventy-five
7 percent with no individual subject grade below sixty-five percent
8 on the practical examination.

9 (6) For practical examinations administered directly by
10 the department, examination grades shall be approved by the board
11 and the department before they become official. Any disagreements
12 regarding a grade to be given among the examiners shall be settled
13 by the chief examiner. An examiner may appeal such a decision to
14 the Director of ~~Regulation and Licensure~~ Public Health or his or
15 her designee.

16 (7) The department shall keep a permanent record of all
17 grades received in examinations and shall provide any individual a
18 copy of his or her grades upon request without charge.

19 (8) The department may adopt and promulgate rules and
20 regulations to provide for procedures, development, administration,
21 scoring, and reviewing of examinations and to protect the security
22 of the contents of examination questions and answers in the
23 examination review. The department shall not enter into an
24 agreement to adopt an examination from a national testing service
25 without first obtaining from such service detailed documentation of
26 the process of examination development and maintenance.

27 Sec. 344. Section 71-410, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-410 Department means the Division of Public Health
3 of the Department of Health and Human Services. ~~Regulation and~~
4 ~~Licensure.~~

5 Sec. 345. Section 71-411, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-411 Director means the Director of ~~Regulation and~~
8 ~~Licensure.~~ Public Health of the Division of Public Health.

9 Sec. 346. Section 71-434, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-434 (1) Licensure activities under the Health Care
12 Facility Licensure Act shall be funded by license fees. An
13 applicant for an initial or renewal license under section 71-433
14 shall pay a license fee as provided in this section.

15 (2) License fees shall include a base fee of fifty
16 dollars and an additional fee based on:

17 (a) Variable costs to the department of inspections,
18 architectural plan reviews, and receiving and investigating
19 complaints, including staff salaries, travel, and other similar
20 direct and indirect costs;

21 (b) The number of beds available to persons residing at
22 the health care facility;

23 (c) The program capacity of the health care facility or
24 health care service; or

25 (d) Other relevant factors as determined by the
26 department.

27 Such additional fee shall be no more than two thousand

1 six hundred dollars for a hospital or a health clinic operating
2 as an ambulatory surgical center, no more than two thousand
3 dollars for an assisted-living facility, a health clinic providing
4 hemodialysis or labor and delivery services, an intermediate care
5 facility, an intermediate care facility for the mentally retarded,
6 a nursing facility, or a skilled nursing facility, no more than one
7 thousand dollars for home health agencies, hospice services, and
8 centers for the developmentally disabled, and no more than seven
9 hundred dollars for all other health care facilities and health
10 care services.

11 (3) If the licensure application is denied, the license
12 fee shall be returned to the applicant, except that the department
13 may retain up to twenty-five dollars as an administrative fee
14 and may retain the entire license fee if an inspection has been
15 completed prior to such denial.

16 (4) The department shall also collect the fee provided in
17 subsection (1) of this section for reinstatement of a license that
18 has lapsed or has been suspended or revoked. The department shall
19 collect a fee of ten dollars for a duplicate original license.

20 (5) The department shall adopt and promulgate rules
21 and regulations for the establishment of license fees under this
22 section.

23 (6) The department shall remit all license fees collected
24 under this section to the State Treasurer for credit to the
25 ~~Department of Health and Human Services Regulation and Licensure~~
26 Health and Human Services Cash Fund. License fees collected under
27 this section shall only be used for activities related to the

1 licensure of health care facilities and health care services.

2 Sec. 347. Section 71-445, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-445 A health care facility or health care service
5 shall not discriminate or retaliate against a person residing
6 in, served by, or employed at such facility or service who has
7 initiated or participated in any proceeding authorized by the
8 Health Care Facility Licensure Act or who has presented a complaint
9 or provided information to the administrator of such facility
10 or service, or the Department of Health and Human Services, or
11 ~~the Department of Health and Human Services Finance and Support,~~
12 ~~or the Department of Health and Human Services Regulation and~~
13 ~~Licensure.~~ Such person may maintain an action for any type of
14 relief, including injunctive and declaratory relief, permitted by
15 law.

16 Sec. 348. Section 71-448, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-448 ~~The department~~ Division of Public Health of the
19 Department of Health and Human Services may take disciplinary
20 action against a license issued under the Health Care Facility
21 Licensure Act on any of the following grounds:

22 (1) Violation of any of the provisions of the
23 Assisted-Living Facility Act, the Health Care Facility Licensure
24 Act, the Nebraska Nursing Home Act, or the rules and regulations
25 adopted and promulgated under such acts;

26 (2) Committing or permitting, aiding, or abetting the
27 commission of any unlawful act;

1 (3) Conduct or practices detrimental to the health or
2 safety of a person residing in, served by, or employed at the
3 health care facility or health care service;

4 (4) A report from an accreditation body or public
5 agency sanctioning, modifying, terminating, or withdrawing the
6 accreditation or certification of the health care facility or
7 health care service;

8 (5) Failure to allow an agent or employee of the
9 Department of Health and Human Services, ~~the Department of Health~~
10 ~~and Human Services Finance and Support,~~ or the Department of
11 ~~Health and Human Services Regulation and Licensure~~ access to the
12 health care facility or health care service for the purposes
13 of inspection, investigation, or other information collection
14 activities necessary to carry out the duties of ~~such departments,~~
15 the Department of Health and Human Services;

16 (6) Discrimination or retaliation against a person
17 residing in, served by, or employed at the health care facility or
18 health care service who has submitted a complaint or information to
19 the Department of Health and Human Services; ~~the Department of~~
20 ~~Health and Human Services Finance and Support,~~ or the Department of
21 ~~Health and Human Services Regulation and Licensure;~~

22 (7) Discrimination or retaliation against a person
23 residing in, served by, or employed at the health care facility or
24 health care service who has presented a grievance or information to
25 the office of the state long-term care ombudsman;

26 (8) Failure to allow a state long-term care ombudsman or
27 an ombudsman advocate access to the health care facility or health

1 care service for the purposes of investigation necessary to carry
2 out the duties of the office of the state long-term care ombudsman
3 as specified in the rules and regulations adopted and promulgated
4 by the Department of Health and Human Services;

5 (9) Violation of the Emergency Box Drug Act;

6 (10) Failure to file a report required by section
7 71-168.02;

8 (11) Violation of the Medication Aide Act; or

9 (12) Failure to file a report of suspected abuse or
10 neglect as required by sections 28-372 and 28-711.

11 Sec. 349. Section 71-501, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 71-501 (1) The local public health department as defined
14 in section 71-1626 or the county board of a county that has
15 not established or joined in the establishment of a local public
16 health department shall make and enforce regulations to prevent the
17 introduction and spread of contagious, infectious, and malignant
18 diseases in the county or counties under its jurisdiction.

19 (2) The county board of a county that has not established
20 or joined in the establishment of a local public health department
21 shall establish a county board of health consisting of three
22 members: The sheriff, who shall be chairperson and quarantine
23 officer; a physician who resides permanently in the county, but
24 if the county has no resident physician, then one conveniently
25 situated, who shall be medical adviser, and who shall be chosen by
26 the county board; and the county clerk, who shall be secretary. The
27 county board may pay the chairperson of the county board of health

1 a salary for such services not to exceed fifty dollars per month,
2 as fixed by the county board.

3 (3) The local public health department or the county
4 board of health shall make rules and regulations to safeguard
5 the health of the people and prevent nuisances and insanitary
6 conditions and shall enforce and provide penalties for the
7 violation of such rules and regulations for the county or counties
8 under its jurisdiction except for incorporated cities and villages.
9 If the local public health department or the county board of health
10 fails to enact such rules and regulations, it shall enforce the
11 rules and regulations adopted and promulgated by the Department of
12 Health and Human Services. ~~Regulation and Licensure.~~

13 Sec. 350. Section 71-501.02, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 71-501.02 The Department of Health and Human Services
16 ~~Regulation and Licensure~~ may establish and administer a statewide
17 acquired immunodeficiency syndrome program for the purpose of
18 providing education, prevention, detection, and counseling services
19 to protect the public health. In order to implement the program,
20 the department may:

21 (1) Apply for, receive, and administer federal and other
22 public and private funds and contract for services, equipment, and
23 property as necessary to use such funds for the purposes specified
24 in section 71-501.01 and this section;

25 (2) Provide education and training regarding acquired
26 immunodeficiency syndrome and its related diseases and conditions
27 to the general public and to health care providers. The department

1 may charge fees based on administrative costs for such services.
2 Any fees collected shall be deposited in the state treasury and
3 shall be credited to the ~~Department of Health and Human Services~~
4 ~~Regulation and Licensure~~ Health and Human Services Cash Fund;

5 (3) Provide resource referrals for medical care and
6 social services to persons affected by acquired immunodeficiency
7 syndrome and its related diseases and conditions;

8 (4) Contract or provide for voluntary, anonymous, or
9 confidential screening, testing, and counseling services. All sites
10 providing such services pursuant to a contract with the department
11 shall provide services on an anonymous basis if so requested by
12 the individual seeking such services. The department may charge
13 and permit its contractors to charge an administrative fee or may
14 request donations to defer the cost of the services but shall not
15 deny the services for failure to pay any administrative fee or for
16 failure to make a donation;

17 (5) Cooperate with the Centers for Disease Control and
18 Prevention of the Public Health Service of the United States
19 Department of Health and Human Services or its successor for
20 the purposes of research into and investigation of acquired
21 immunodeficiency syndrome and its related diseases and conditions;
22 and

23 (6) To the extent funds are available, offer services
24 that are culturally and language specific upon request to persons
25 identified as having tested positive for the human immunodeficiency
26 virus infection. Such services shall include, but not be limited
27 to, posttest counseling, partner notification, and such early

1 intervention services as case management, behavior modification and
2 support services, laboratory quantification of lymphocyte subsets,
3 immunizations, Mantoux testing for tuberculosis, prophylactic
4 treatment, and referral for other medical and social services.

5 Sec. 351. Section 71-502, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-502 The Department of Health and Human Services
8 ~~Regulation and Licensure~~ shall have supervision and control of
9 all matters relating to necessary communicable disease control
10 and shall adopt and promulgate such proper and reasonable general
11 rules and regulations as will best serve to promote communicable
12 disease control throughout the state and prevent the introduction
13 or spread of disease. In addition to such general and standing
14 rules and regulations, (1) in cases of emergency in which the
15 health of the people of the entire state or any locality in the
16 state is menaced by or exposed to any contagious, infectious, or
17 epidemic disease, illness, or poisoning, (2) when a local board
18 of health having jurisdiction of a particular locality fails or
19 refuses to act with sufficient promptitude and efficiency in any
20 such emergency, or (3) in localities in which no local board of
21 health has been established, as provided by law, the department
22 shall adopt, promulgate, and enforce special communicable disease
23 control rules and regulations such as the occasion and proper
24 protection of the public health may require. All necessary expenses
25 incurred in the enforcement of such rules and regulations shall be
26 paid by the city, village, or county for and within which the same
27 have been incurred. All officers and other persons shall obey and

1 enforce such communicable disease control rules and regulations as
2 may be adopted and promulgated by the department.

3 Sec. 352. Section 71-502.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-502.01 Sexually transmitted diseases are declared to
6 be contagious, infectious, communicable, and dangerous to the
7 public health. Sexually transmitted diseases shall include, but
8 not be limited to, syphilis, gonorrhea, chancroid, and such other
9 sexually transmitted diseases as the Department of Health and Human
10 Services ~~Regulation and Licensure~~ may from time to time specify.

11 Sec. 353. Section 71-502.02, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-502.02 The Department of Health and Human Services
14 ~~Regulation and Licensure~~ shall adopt and promulgate such rules and
15 regulations as shall, in its judgment, be necessary to control and
16 suppress sexually transmitted diseases.

17 Sec. 354. Section 71-502.03, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-502.03 Every physician, or other person authorized by
20 law to practice obstetrics, who is attending a pregnant woman
21 in the state for conditions relating to her pregnancy during the
22 period of gestation or at delivery shall take or cause to be
23 taken a sample of the blood of such woman at the time of the
24 first examination and shall submit such sample to an approved
25 laboratory for a standard serological test for syphilis. Every
26 other person permitted by law to attend pregnant women in the
27 state, but not permitted by law to take blood samples, shall cause

1 such a sample of the blood of such pregnant women to be taken by a
2 physician, duly licensed to practice either medicine and surgery or
3 obstetrics, or other person authorized by law to take such sample
4 of blood and have such sample submitted to an approved laboratory
5 for a standard serological test for syphilis. The results of
6 all such laboratory tests shall be reported to the ~~Director of~~
7 ~~Regulation and Licensure~~ Department of Health and Human Services
8 on standard forms prescribed and furnished by the ~~Department of~~
9 ~~Health and Human Services Regulation and Licensure~~ department. For
10 the purpose of this section, a standard serological test shall be
11 a test for syphilis approved by the ~~Director of Regulation and~~
12 ~~Licensure~~ department and shall be made at a laboratory approved
13 to make such tests by the ~~Director of Regulation and Licensure~~
14 department. Such laboratory tests, as are required by this section,
15 shall be made on request at the Department of Health and Human
16 Services ~~Regulation and Licensure laboratory~~ Laboratory. A fee may
17 be established by rule and regulation by the department to defray
18 no more than the actual cost of such tests. Such fee shall be
19 deposited in the state treasury and credited to the ~~Department~~
20 ~~of Health and Human Services Regulation and Licensure~~ Health and
21 Human Services Cash Fund. In reporting every birth and stillbirth,
22 physicians and others required to make such reports shall state
23 on the portion of the certificate entitled For Medical and Health
24 Use Only whether a blood test for syphilis has been made upon a
25 specimen of blood taken from the woman who bore the child for which
26 a birth or stillbirth certificate is filed and the approximate
27 date when the specimen was taken. No birth certificate shall show

1 the result of such test. If no test was made, the reason shall
2 be stated. The department shall provide the necessary clerical,
3 printing, and other expenses in carrying out this section.

4 Sec. 355. Section 71-502.04, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-502.04 Any person who is in charge of a clinical
7 laboratory in which a laboratory examination of any specimen
8 derived from the human body yields microscopical, cultural,
9 immunological, serological, or other evidence of disease, illness,
10 or poisoning as the Department of Health and Human Services
11 ~~Regulation and Licensure~~ may from time to time specify shall
12 promptly notify the official local health department or the
13 Department of Health and Human Services ~~Regulation and Licensure~~
14 of such findings.

15 Each notification shall give the date and result of the
16 test performed, the name and, when available, the age of the person
17 from whom the specimen was obtained, and the name and address of
18 the physician for whom such examination or test was performed. A
19 legible copy of the laboratory report shall be deemed satisfactory
20 notification.

21 Sec. 356. Section 71-503, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-503 All attending physicians shall report to the
24 official local health department or the Department of Health
25 and Human Services ~~Regulation and Licensure~~ promptly, upon the
26 discovery thereof, the existence of any contagious or infectious
27 diseases and such other disease, illness, or poisoning as the

1 Department of Health and Human Services ~~Regulation and Licensure~~
2 may from time to time specify. Any attending physician, knowing of
3 the existence of any such disease, illness, or poisoning, who fails
4 promptly to report the same in accordance with this section, shall
5 be deemed guilty of a Class V misdemeanor for each offense.

6 Sec. 357. Section 71-503.01, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-503.01 Whenever any statute of the state, any
9 ordinance or resolution of a municipal corporation or political
10 subdivision enacted pursuant to statute, or any rule or regulation
11 of an administrative agency adopted and promulgated pursuant to
12 statute requires medical practitioners or other persons to report
13 cases of communicable diseases, including sexually transmitted
14 diseases and other reportable diseases, illnesses, or poisonings
15 or to give notification of positive laboratory findings to the
16 Department of Health and Human Services ~~Regulation and Licensure~~
17 or any county or city board of health, local health department
18 established pursuant to sections 71-1626 to 71-1636, city health
19 department, local health agency, or state or local public official
20 exercising the duties and responsibilities of any board of health
21 or health department, such reports or notifications and the
22 resulting investigations shall be confidential except as provided
23 in this section, shall not be subject to subpoena, and shall be
24 privileged and inadmissible in evidence in any legal proceeding
25 of any kind or character and shall not be disclosed to any other
26 department or agency of the State of Nebraska.

27 In order to further the protection of public health, such

1 reports and notifications may be disclosed by the Department of
2 Health and Human Services, ~~Regulation and Licensure~~, the official
3 local health department, and the person making such reports or
4 notifications to the Centers for Disease Control and Prevention
5 of the Public Health Service of the United States Department of
6 Health and Human Services or its successor in such a manner as to
7 ensure that the identity of any individual cannot be ascertained.
8 To further protect the public health, the Department of Health
9 and Human Services, ~~Regulation and Licensure~~, the official local
10 health department, and the person making the report or notification
11 may disclose to the official state and local health departments
12 of other states, territories, and the District of Columbia such
13 reports and notifications, including sufficient identification and
14 information so as to ensure that such investigations as deemed
15 necessary are made.

16 The appropriate board, health department, agency, or
17 official may: (1) Publish analyses of such reports and information
18 for scientific and public health purposes in such a manner as
19 to ensure that the identity of any individual concerned cannot
20 be ascertained; (2) discuss the report or notification with the
21 attending physician; and (3) make such investigation as deemed
22 necessary.

23 Any medical practitioner, any official health department,
24 the Department of Health and Human Services, ~~Regulation and~~
25 ~~Licensure~~, or any other person making such reports or notifications
26 shall be immune from suit for slander or libel or breach of
27 privileged communication based on any statements contained in such

1 reports and notifications.

2 Sec. 358. Section 71-504, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-504 The ~~Director of Health and Human Services~~, the
5 ~~Director of Regulation and Licensure~~, chief medical officer as
6 designated in section 6 of this act, or local director of health,
7 if a physician, or his or her agent, or any physician, upon
8 consultation by any person as a patient, shall, with the consent
9 of such person who is hereby granted the right of giving such
10 consent, make or cause to be made a diagnostic examination for
11 sexually transmitted diseases and prescribe for and treat such
12 person for sexually transmitted diseases including prophylactic
13 treatment for exposure to sexually transmitted diseases whenever
14 such person is suspected of having a sexually transmitted disease
15 or contact with anyone having a sexually transmitted disease.
16 All such examinations and treatment may be performed without the
17 consent of or notification to the parent, parents, guardian, or any
18 other person having custody of such person. In any such case, the
19 ~~Director of Health and Human Services~~, the ~~Director of Regulation~~
20 ~~and Licensure~~, chief medical officer, or local director of health,
21 if a physician, or his or her agent, or the physician shall
22 incur no civil or criminal liability by reason of having made
23 such diagnostic examination or rendered such treatment, but such
24 immunity shall not apply to any negligent acts or omissions. The
25 ~~Director of Health and Human Services~~ chief medical officer or
26 local director of health, if a physician, or his or her agent, or
27 the physician shall incur no civil or criminal liability by reason

1 of any adverse reaction to medication administered if reasonable
2 care is taken to elicit from any such person who is under twenty
3 years of age any history of sensitivity or previous adverse
4 reaction to medication. Parents shall be liable for expenses
5 of such treatment to minors under their custody. In the event
6 such person is affected with a sexually transmitted disease, the
7 ~~Director of Regulation and Licensure~~ chief medical officer or local
8 director of health may cause an interview of the person by a
9 sexually transmitted disease investigator to secure the names of
10 sexual contacts so that appropriate investigation can be made in an
11 effort to locate and eliminate sources of infection.

12 Sec. 359. Section 71-505, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 71-505 (1) The Department of Health and Human Services
15 ~~Regulation and Licensure~~ shall secure and maintain in all parts
16 of the state an official record and notification of reportable
17 diseases, illnesses, or poisonings, provide popular literature upon
18 the different branches of public health and distribute the same
19 free throughout the state in a manner best calculated to promote
20 that interest, prepare and exhibit in the different communities
21 of the state public health demonstrations accompanied by lectures
22 and audiovisual aids, provide preventive services to protect the
23 public, and in all other effective ways prevent the origin and
24 spread of disease and promote the public health.

25 (2) The department may provide technical services to and
26 on behalf of health care providers and may charge fees for such
27 services in an amount sufficient to recover the administrative

1 costs of such services. Such fees shall be paid into the state
2 treasury and credited to the ~~Department of Health and Human~~
3 ~~Services Regulation and Licensure~~ Health and Human Services Cash
4 Fund.

5 Sec. 360. Section 71-507, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 71-507 For purposes of sections 71-507 to 71-513:

8 (1) Alternate facility means a facility other than a
9 health care facility that receives a patient transported to the
10 facility by an emergency services provider;

11 (2) Department means the Department of Health and Human
12 Services; ~~Regulation and Licensure;~~

13 (3) Designated physician means the physician representing
14 the emergency services provider as identified by name, address,
15 and telephone number on the significant exposure report form. The
16 designated physician shall serve as the contact for notification in
17 the event an emergency services provider believes he or she has had
18 significant exposure to an infectious disease or condition. Each
19 emergency services provider shall designate a physician as provided
20 in subsection (2) of section 71-509;

21 (4) Emergency services provider means an out-of-hospital
22 emergency care provider certified pursuant to the Emergency Medical
23 Services Act, a sheriff, a deputy sheriff, a police officer,
24 a state highway patrol officer, a funeral director, a paid or
25 volunteer firefighter, a school district employee, and a person
26 rendering emergency care gratuitously as described in section
27 25-21,186;

1 (5) Funeral director means a person licensed under
2 section 71-1302 or an employee of such a person with responsibility
3 for transport or handling of a deceased human;

4 (6) Funeral establishment means a business licensed under
5 section 71-1327;

6 (7) Health care facility has the meaning found in
7 sections 71-419, 71-420, 71-424, and 71-429 or any facility
8 that receives patients of emergencies who are transported to
9 the facility by emergency services providers;

10 (8) Infectious disease or condition means hepatitis
11 B, hepatitis C, meningococcal meningitis, active pulmonary
12 tuberculosis, human immunodeficiency virus, diphtheria, plague,
13 hemorrhagic fevers, rabies, and such other diseases as the
14 department may by rule and regulation specify;

15 (9) Patient means an individual who is sick, injured,
16 wounded, deceased, or otherwise helpless or incapacitated;

17 (10) Patient's attending physician means the physician
18 having the primary responsibility for the patient as indicated on
19 the records of a health care facility;

20 (11) Provider agency means any law enforcement agency,
21 fire department, emergency medical service, funeral establishment,
22 or other entity which employs or directs emergency services
23 providers or public safety officials;

24 (12) Public safety official means a sheriff, a deputy
25 sheriff, a police officer, a state highway patrol officer, a paid
26 or volunteer firefighter, a school district employee, and any
27 civilian law enforcement employee or volunteer performing his or

1 her duties, other than those as an emergency services provider;

2 (13) Responsible person means an individual who has been
3 designated by an alternate facility to carry out the facility's
4 responsibilities under sections 71-507 to 71-513. A responsible
5 person may be designated on a case-by-case basis;

6 (14) Significant exposure means a situation in which
7 the body fluids, including blood, saliva, urine, respiratory
8 secretions, or feces, of a patient or individual have entered
9 the body of an emergency services provider or public safety
10 official through a body opening including the mouth or nose, a
11 mucous membrane, or a break in skin from cuts or abrasions, from
12 a contaminated needlestick or scalpel, from intimate respiratory
13 contact, or through any other situation when the patient's or
14 individual's body fluids may have entered the emergency services
15 provider's or public safety official's body or when an airborne
16 pathogen may have been transmitted from the patient or individual
17 to the emergency services provider or public safety official; and

18 (15) Significant exposure report form means the form
19 used by the emergency services provider to document information
20 necessary for notification of significant exposure to an infectious
21 disease or condition.

22 Sec. 361. Section 71-514.02, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-514.02 For purposes of sections 71-514.01 to
25 71-514.05:

26 (1) Health care provider means a person who provides care
27 to a patient which is designed to improve the status of his or her

1 health whether this care is rendered in the hospital or community
2 setting and whether the provider is paid or voluntary. Health care
3 provider does not mean an emergency services provider as defined in
4 section 71-507;

5 (2) Infectious disease or condition means hepatitis
6 B, hepatitis C, meningococcal meningitis, active pulmonary
7 tuberculosis, human immunodeficiency virus, and such other diseases
8 as the Department of Health and Human Services ~~Regulation and~~
9 ~~Licensure~~ may from time to time specify;

10 (3) Patient means an individual who is sick, injured,
11 wounded, or otherwise helpless or incapacitated;

12 (4) Provider agency means any health care facility or
13 agency which is in the business of providing health care services;
14 and

15 (5) Significant exposure to blood or other body fluid
16 means a specific eye, mouth, other mucous membrane, nonintact
17 skin, or parenteral contact with blood or other materials known to
18 transmit infectious diseases that results from providing care.

19 Sec. 362. Section 71-516.02, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-516.02 The Legislature finds and declares that:

22 (1) Certain nursing homes and related facilities and
23 assisted-living facilities claim special care for persons who have
24 Alzheimer's disease, dementia, or a related disorder;

25 (2) It is in the public interest to provide for the
26 protection of consumers regarding the accuracy and authenticity of
27 such claims; and

1 (3) The provisions of the Alzheimer's Special Care
2 Disclosure Act are intended to require such facilities to disclose
3 the reasons for those claims, require records of such disclosures
4 to be kept, and require the Department of Health and Human Services
5 ~~Regulation and Licensure~~ to examine the records.

6 Sec. 363. Section 71-516.03, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-516.03 For the purposes of the Alzheimer's Special
9 Care Disclosure Act, Alzheimer's special care unit shall mean
10 any nursing facility or assisted-living facility, licensed by
11 the Department of Health and Human Services, ~~Regulation and~~
12 ~~Licensure~~, which secures, segregates, or provides a special
13 program or special unit for residents with a diagnosis of
14 probable Alzheimer's disease, dementia, or a related disorder and
15 which advertises, markets, or otherwise promotes the facility as
16 providing specialized Alzheimer's disease, dementia, or related
17 disorder care services.

18 Sec. 364. Section 71-516.04, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-516.04 Any facility which offers to provide or
21 provides care for persons with Alzheimer's disease, dementia, or a
22 related disorder by means of an Alzheimer's special care unit shall
23 disclose the form of care or treatment provided that distinguishes
24 such form as being especially applicable to or suitable for such
25 persons. The disclosure shall be made to the Department of Health
26 and Human Services ~~Regulation and Licensure~~ and to any person
27 seeking placement within an Alzheimer's special care unit. The

1 department shall examine all such disclosures in the records of the
2 department as part of the facility's license renewal procedure at
3 the time of licensure or relicensure.

4 The information disclosed shall explain the additional
5 care provided in each of the following areas:

6 (1) The Alzheimer's special care unit's written statement
7 of its overall philosophy and mission which reflects the needs
8 of residents afflicted with Alzheimer's disease, dementia, or a
9 related disorder;

10 (2) The process and criteria for placement in, transfer
11 to, or discharge from the unit;

12 (3) The process used for assessment and establishment of
13 the plan of care and its implementation, including the method by
14 which the plan of care evolves and is responsive to changes in
15 condition;

16 (4) Staff training and continuing education practices;

17 (5) The physical environment and design features
18 appropriate to support the functioning of cognitively impaired
19 adult residents;

20 (6) The frequency and types of resident activities;

21 (7) The involvement of families and the availability of
22 family support programs; and

23 (8) The costs of care and any additional fees.

24 Sec. 365. Section 71-519, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 71-519 (1) All infants born in the State of Nebraska
27 shall be screened for phenylketonuria, primary hypothyroidism,

1 biotinidase deficiency, galactosemia, hemoglobinopathies,
2 medium-chain acyl co-a dehydrogenase (MCAD) deficiency, and
3 such other metabolic diseases as the Department of Health and Human
4 Services ~~Regulation and Licensure~~ may from time to time specify.
5 Confirmatory tests shall be performed if a presumptive positive
6 result on the screening test is obtained.

7 (2) The attending physician shall collect or cause to
8 be collected the prescribed blood specimen or specimens and shall
9 submit or cause to be submitted the same to the laboratory
10 designated by the department for the performance of such tests
11 within the period and in the manner prescribed by the department.
12 If a birth is not attended by a physician and the infant does
13 not have a physician, the person registering the birth shall
14 cause such tests to be performed within the period and in the
15 manner prescribed by the department. The laboratory shall within
16 the period and in the manner prescribed by the department perform
17 such tests as are prescribed by the department on the specimen
18 or specimens submitted and report the results of these tests to
19 the physician, if any, the hospital or other birthing facility or
20 other submitter, and the department. The laboratory shall report
21 to the department the results of such tests that are presumptive
22 positive or confirmed positive within the period and in the manner
23 prescribed by the department.

24 (3) The hospital or other birthing facility shall record
25 the collection of specimens for tests for metabolic diseases and
26 the report of the results of such tests or the absence of such
27 report. For purposes of tracking, monitoring, and referral, the

1 hospital or other birthing facility shall provide from its records,
2 upon the department's request, information about the infant's and
3 mother's location and contact information, and care and treatment
4 of the infant.

5 (4) (a) The department shall have authority over the
6 use, retention, and disposal of blood specimens and all related
7 information collected in connection with metabolic disease testing
8 conducted under subsection (1) of this section.

9 (b) The department shall adopt and promulgate rules
10 and regulations relating to the retention and disposal of such
11 specimens. The rules and regulations shall: (i) Be consistent with
12 nationally recognized standards for laboratory accreditation and
13 shall comply with all applicable provisions of federal law; (ii)
14 require that the disposal be conducted in the presence of a witness
15 who may be an individual involved in the disposal or any other
16 individual; and (iii) provide for maintenance of a written or
17 electronic record of the disposal, verified by such witness.

18 (c) The department shall adopt and promulgate rules and
19 regulations relating to the use of such specimens and related
20 information. Such use shall only be made for public health purposes
21 and shall comply with all applicable provisions of federal law.
22 The department may charge a reasonable fee for evaluating proposals
23 relating to the use of such specimens for public health research
24 and for preparing and supplying specimens for research proposals
25 approved by the department.

26 (5) The department shall prepare written materials
27 explaining the requirements of this section. The department shall

1 include the following information in the pamphlet:

2 (a) The nature and purpose of the testing program
3 required under this section, including, but not limited to, a brief
4 description of each condition or disorder listed in subsection (1)
5 of this section;

6 (b) The purpose and value of the infant's parent,
7 guardian, or person in loco parentis retaining a blood specimen
8 obtained under subsection (6) of this section in a safe place;

9 (c) The department's procedures for retaining and
10 disposing of blood specimens developed under subsection (4) of this
11 section; and

12 (d) That the blood specimens taken for purposes of
13 conducting the tests required under subsection (1) of this section
14 may be used for research pursuant to subsection (4) of this
15 section.

16 (6) In addition to the requirements of subsection (1)
17 of this section, the attending physician or person registering
18 the birth may offer to draw an additional blood specimen from
19 the infant. If such an offer is made, it shall be made to the
20 infant's parent, guardian, or person in loco parentis at the
21 time the blood specimens are drawn for purposes of subsection (1)
22 of this section. If the infant's parent, guardian, or person in
23 loco parentis accepts the offer of an additional blood specimen,
24 the blood specimen shall be preserved in a manner that does not
25 require special storage conditions or techniques, including, but
26 not limited to, lamination. The attending physician or person
27 making the offer shall explain to the parent, guardian, or person

1 in loco parentis at the time the offer is made that the additional
2 blood specimen can be used for future identification purposes and
3 should be kept in a safe place. The attending physician or person
4 making the offer may charge a fee that is not more than the actual
5 cost of obtaining and preserving the additional blood specimen.

6 (7) The person responsible for causing the tests to be
7 performed under subsection (2) of this section shall inform the
8 parent or legal guardian of the infant of the tests and of the
9 results of the tests and provide, upon any request for further
10 information, at least a copy of the written materials prepared
11 under subsection (5) of this section.

12 (8) Dietary and therapeutic management of the infant with
13 phenylketonuria, primary hypothyroidism, biotinidase deficiency,
14 galactosemia, hemoglobinopathies, MCAD deficiency, or such other
15 metabolic diseases as the department may from time to time specify
16 shall be the responsibility of the child's parent, guardian, or
17 custodian with the aid of a physician selected by such person.

18 (9) Except for acts of gross negligence or willful or
19 wanton conduct, any physician, hospital or other birthing facility,
20 laboratory, or other submitter making reports or notifications
21 under sections 71-519 to 71-524 shall be immune from criminal or
22 civil liability of any kind or character based on any statements
23 contained in such reports or notifications.

24 Sec. 366. Section 71-520, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 71-520 The Department of Health and Human Services
27 ~~Regulation and Licensure~~ shall establish a program to provide

1 food supplements and treatment services to individuals suffering
2 from the metabolic diseases set forth in section 71-519. To defray
3 or help defray the costs of any program which may be established
4 by the department under this section, the department may prescribe
5 and assess a scale of fees for the food supplements. The maximum
6 prescribed fee for food supplements shall be no more than the
7 actual cost of providing such supplements. No fees may be charged
8 for formula, and up to two thousand dollars of pharmaceutically
9 manufactured food supplements shall be available to an individual
10 without fees each year.

11 Sec. 367. Section 71-521, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 71-521 The Department of Health and Human Services
14 ~~Regulation and Licensure~~ shall prescribe the tests, the test
15 methods and techniques, and such reports and reporting procedures
16 as are necessary to implement sections 71-519 to 71-524.

17 Sec. 368. Section 71-522, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 71-522 The Department of Health and Human Services
20 ~~Regulation and Licensure~~ shall establish and maintain a central
21 data registry for the collection and storage of reported data
22 concerning metabolic diseases. The department shall use reported
23 data to ensure that all infants born in the State of Nebraska
24 are tested for diseases set forth in section 71-519 or by rule
25 and regulation. The department shall also use reported data to
26 evaluate the quality of the statewide system of newborn screening
27 and develop procedures for quality assurance. Reported data in

1 anonymous or statistical form may be made available by the
2 department for purposes of research.

3 Sec. 369. Section 71-523, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 71-523 (1) The Department of Health and Human Services
6 ~~Regulation and Licensure~~ shall provide educational and resource
7 services regarding metabolic diseases to persons affected by
8 sections 71-519 to 71-524 and to the public generally.

9 (2) The Department of Health and Human Services~~, the~~
10 ~~Department of Health and Human Services Finance and Support,~~
11 ~~and the Department of Health and Human Services Regulation and~~
12 ~~Licensure~~ may apply for, receive, and administer assessed fees and
13 federal or other funds which are available for the purpose of
14 implementing sections 71-519 to 71-524 and may contract for or
15 provide services as may be necessary to implement such sections.

16 (3) The Department of Health and Human Services
17 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
18 regulations to implement sections 71-519 to 71-524.

19 (4) The Department of Health and Human Services
20 ~~Regulation and Licensure~~ shall contract, following competitive
21 bidding, with a single laboratory to perform tests, report results,
22 set forth the fee the laboratory will charge for testing, and
23 collect and submit fees pursuant to sections 71-519 to 71-524. The
24 department shall require the contracting laboratory to: (a) Perform
25 testing for all of the diseases pursuant to section 71-519 and
26 in accordance with rules and regulations adopted and promulgated
27 pursuant to this section, (b) maintain certification under the

1 federal Clinical Laboratories Improvement Act of 1967, 42 U.S.C.
2 263a, as such act and section existed on July 20, 2002, (c)
3 participate in appropriate quality assurance proficiency testing
4 programs offered by the Centers for Disease Control and Prevention
5 of the United States Department of Health and Human Services or
6 other professional laboratory organization, as determined by the
7 Department of Health and Human Services, ~~Regulation and Licensure,~~
8 (d) maintain sufficient contingency arrangements to ensure testing
9 delays of no longer than twenty-four hours in the event of natural
10 disaster or laboratory equipment failure, and (e) charge to the
11 hospital, other birthing facility, or other submitter the fee
12 provided in the contract for laboratory testing costs and the
13 administration fee specified in subsection (5) of this section. The
14 administration fee collected pursuant to such subsection shall be
15 remitted to the Department of Health and Human Services, ~~Finance~~
16 ~~and Support.~~

17 (5) The Department of Health and Human Services
18 ~~Regulation and Licensure~~ shall set an administration fee of not
19 more than ten dollars. The department may use the administration
20 fee to pay for the costs of the central data registry, tracking,
21 monitoring, referral, quality assurance, program operation, program
22 development, program evaluation, and treatment services authorized
23 under sections 71-519 to 71-523. The fee shall be collected by the
24 contracting laboratory as provided in subdivision (4)(e) of this
25 section.

26 (6) Fees collected for the department pursuant to
27 sections 71-519 to 71-523 shall be remitted to the State Treasurer

1 for credit to the ~~Department of Health and Human Services Finance~~
2 ~~and Support~~ Health and Human Services Cash Fund.

3 Sec. 370. Section 71-524, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-524 In addition to any other remedies which may be
6 available by law, a civil proceeding to enforce section 71-519 may
7 be brought in the district court of the county where the infant is
8 domiciled or found. The attending physician, the hospital or other
9 birthing facility, the Attorney General, or the county attorney of
10 the county where the infant is domiciled or found may institute
11 such proceedings as are necessary to enforce such section. It shall
12 be the duty of the Attorney General or the county attorney to whom
13 the ~~Director of Regulation and Licensure~~ Department of Health and
14 Human Services reports a violation to cause appropriate proceedings
15 to be initiated without delay. A hearing on any action brought
16 pursuant to this section shall be held within seventy-two hours of
17 the filing of such action, and a decision shall be rendered by the
18 court within twenty-four hours of the close of the hearing.

19 Sec. 371. Section 71-529, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-529 The Department of Health and Human Services
22 ~~Regulation and Licensure~~ may participate in the national efforts
23 described in sections 71-527 and 71-528 and may develop a
24 statewide immunization action plan which is comprehensive in scope
25 and reflects contributions from a broad base of providers and
26 consumers. In order to implement the statewide immunization action
27 plan, the department may:

1 (1) Actively seek the participation and commitment of the
2 public, health care professionals and facilities, the educational
3 community, and community organizations in a comprehensive program
4 to ensure that the state's children are appropriately immunized;

5 (2) Apply for and receive public and private awards
6 to purchase vaccines and to administer a statewide comprehensive
7 program;

8 (3) Provide immunization information and education to the
9 public, parents, health care providers, and educators to establish
10 and maintain a high level of awareness and demand for immunization
11 by parents;

12 (4) Assist parents, health care providers, and
13 communities in developing systems, including demonstration and
14 pilot projects, which emphasize well-child care and the use
15 of private practitioners and which improve the availability of
16 immunization and improve management of immunization delivery so as
17 to ensure the adequacy of the vaccine delivery system;

18 (5) Evaluate the effectiveness of these statewide
19 efforts, conduct ongoing measurement of children's immunization
20 status, identify children at special risk for deficiencies in
21 immunization, and report on the activities of the statewide
22 immunization program annually to the Legislature and the citizens
23 of Nebraska;

24 (6) Recognize persons who volunteer their efforts towards
25 achieving the goal of providing immunization of the children of
26 Nebraska and in meeting the Healthy People 2000 objective of
27 series-complete immunization coverage for ninety percent or more of

1 United States children by their second birthday;

2 (7) Establish a statewide program to immunize Nebraska
3 children from birth up to six years of age against measles, mumps,
4 rubella, poliomyelitis, diphtheria, pertussis, tetanus, hepatitis
5 B, and haemophilus influenzae type B. The program shall serve
6 children who are not otherwise eligible for childhood immunization
7 coverage with medicaid or other federal funds or are not covered by
8 private third-party payment; and

9 (8) Contract to provide vaccine under the statewide
10 program authorized under subdivision (7) of this section without
11 cost to health care providers subject to the following conditions:

12 (a) In order to receive vaccine without cost, health care
13 providers shall not charge for the cost of the vaccine. Health care
14 providers may charge a fee for the administration of the vaccine
15 but may not deny service because of the parent's or guardian's
16 inability to pay such fee. Fees for administration of the vaccine
17 shall be negotiated between the department and the health care
18 provider, shall be uniform among participating providers, and shall
19 be no more than the cost ceiling for the region in which Nebraska
20 is included as set by the Secretary of the United States Department
21 of Health and Human Services for the Vaccines for Children Program
22 authorized by the Omnibus Budget Reconciliation Act of 1993;

23 (b) Health care providers shall administer vaccines
24 according to the schedule recommended by the Advisory Committee
25 on Immunization Practices of the Centers for Disease Control and
26 Prevention or by the American Academy of Pediatrics unless in the
27 provider's medical judgment, subject to accepted medical practice,

1 such compliance is medically inappropriate; and

2 (c) Health care providers shall maintain records on
3 immunizations as prescribed by this section for inspection and
4 audit by the Department of Health and Human Services ~~Regulation and~~
5 ~~Licensure~~ or the Auditor of Public Accounts, including responses
6 by parents or guardians to simple screening questions related
7 to payment coverage by public or private third-party payors,
8 identification of the administration fee as separate from any
9 other cost charged for other services provided at the same time
10 the vaccination service is provided, and other information as
11 determined by the department to be necessary to comply with
12 subdivision (5) of this section. Such immunization records may also
13 be used for information exchange as provided in sections 71-539 to
14 71-544.

15 Sec. 372. Section 71-532, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-532 The Department of Health and Human Services
18 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
19 regulations which make the human immunodeficiency virus infection
20 reportable by name in the same manner as communicable diseases
21 under section 71-502.

22 Sec. 373. Section 71-541, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 71-541 A physician, an advanced practice registered nurse
25 practicing under and in accordance with his or her applicable
26 certification act, a physician assistant, a pharmacist, a licensed
27 health care facility, a public immunization clinic, a local or

1 district health department, and the Department of Health and
2 Human Services, ~~the Department of Health and Human Services~~
3 ~~Regulation and Licensure~~, and the Department of Health and Human
4 ~~Services Finance and Support~~ may share immunization information
5 which is not restricted under section 71-540. The unrestricted
6 immunization information shared may include, but is not limited
7 to, the patient's name, date of birth, dates and vaccine types
8 administered, and any immunization information obtained from other
9 sources.

10 Sec. 374. Section 71-543, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-543 The Department of Health and Human Services, ~~the~~
13 ~~Department of Health and Human Services Regulation and Licensure~~,
14 and the Department of Health and Human Services Finance and
15 ~~Support~~ may adopt and promulgate rules and regulations to implement
16 sections 71-539 to 71-544, including procedures and methods for
17 access to and security of the immunization information.

18 Sec. 375. Section 71-601.01, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 71-601.01 For purposes of the Vital Statistics Act:

21 (1) Abstract of marriage means a certified document that
22 summarizes the facts of marriage, including, but not limited to,
23 the name of the bride and groom, the date of the marriage, the
24 place of the marriage, and the name of the office filing the
25 original marriage license. An abstract of marriage does not include
26 signatures;

27 (2) Certificate means the record of a vital event;

1 (3) Certification means the process of recording, filing,
2 amending, or preserving a certificate, which process may be by
3 any means, including, but not limited to, microfilm, electronic,
4 imaging, photographic, typewritten, or other means designated by
5 the department; and

6 (4) Department means the Department of Health and Human
7 Services. ~~Finance and Support.~~

8 Sec. 376. Section 71-602, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-602 (1) ~~The Department of Health and Human Services~~
11 ~~Finance and Support~~ department shall adopt and promulgate rules and
12 regulations prescribing all standard forms for registering with or
13 reporting to the department and for certification to the public of
14 any birth, abortion, marriage, annulment, dissolution of marriage,
15 or death registered in Nebraska. Such forms shall (a) provide for
16 the registration of vital events as accurately as possible, (b)
17 secure information about the economic, educational, occupational,
18 and sociological backgrounds of the individuals involved in the
19 registered events and their parents as a basis for statistical
20 research in order to reduce morbidity and mortality and improve
21 the quality of life, (c) accomplish such duties in a manner which
22 will be uniform with forms for reporting similar events which
23 have been established by the United States Public Health Service
24 to the extent such forms are consistent with state law, and (d)
25 permit other deviations from such forms as will reduce the costs of
26 gathering information, increase efficiency, or protect the health
27 and safety of the people of Nebraska without jeopardizing such

1 uniformity.

2 (2) All information designated by the department on all
3 certificates as being for health data and statistical research
4 shall be confidential and may be released only to the United States
5 Public Health Service or its successor, government health agencies,
6 or a researcher as approved by the department in accordance with
7 its rules and regulations. The department may publish analyses of
8 any information received on the forms for scientific and public
9 health purposes in such a manner as to assure that the identity
10 of any individual cannot be ascertained. The release of such
11 information pursuant to this section shall not make otherwise
12 confidential information a public record.

13 Sec. 377. Section 71-602.01, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-602.01 All information designated by the ~~Department~~
16 ~~of Health and Human Services Finance and Support~~ department on
17 all certificates as being for health data and statistical research
18 shall be confidential but may be released to the ~~Department of~~
19 ~~Health and Human Services and the Department of Health and Human~~
20 ~~Services Regulation and Licensure~~ department for research and
21 statistical purposes. The ~~Department of Health and Human Services~~
22 ~~Finance and Support~~ department may release cost, health, and
23 associated health risk information from medicaid records to the
24 ~~Department of Health and Human Services and the Department of~~
25 ~~Health and Human Services Regulation and Licensure~~ department for
26 research and statistical purposes. ~~Release of information shall be~~
27 ~~pursuant to a written agreement between the Department of Health~~

1 ~~and Human Services Finance and Support and the Department of~~
2 ~~Health and Human Services and between the Department of Health~~
3 ~~and Human Services Finance and Support and the Department of~~
4 ~~Health and Human Services Regulation and Licensure.~~ Such agreement
5 release shall provide for protection of the security of the
6 content of the information, including access limitations, storage
7 of the information, destruction of the information, and use of
8 the information. The release of such information pursuant to this
9 section shall not make otherwise confidential information a public
10 record.

11 Sec. 378. Section 71-604, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-604 (1) A certificate for each live birth which
14 occurs in the State of Nebraska shall be filed on a standard
15 Nebraska certificate form. Such certificate shall be filed with
16 the ~~Department of Health and Human Services Finance and Support~~
17 department within five business days after the birth.

18 (2) When a birth occurs in an institution or en route
19 thereto, the person in charge of the institution or his or her
20 authorized designee shall obtain the personal data, prepare the
21 certificate which shall include the name, title, and address of
22 the attendant, certify that the child was born alive at the place
23 and time and on the date stated either by standard procedure or
24 by an approved electronic process, and file the certificate. The
25 physician or other person in attendance shall provide the medical
26 information required for the certificate within seventy-two hours
27 after the birth.

1 (3) When a birth occurs outside an institution, the
2 certificate of birth shall be prepared and filed by one of the
3 following:

4 (a) The physician in attendance at or immediately after
5 the birth;

6 (b) The father, the mother, or, in the absence of the
7 father and the inability of the mother, the person in charge of the
8 premises where the birth occurred; or

9 (c) Any other person in attendance at or immediately
10 after the birth.

11 Sec. 379. Section 71-604.01, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-604.01 Upon receipt of a notarized affidavit from the
14 physician that performed sex reassignment surgery on an individual
15 born in this state and a certified copy of an order of a
16 court of competent jurisdiction changing the name of such person,
17 the ~~Department of Health and Human Services Finance and Support~~
18 department shall prepare a new certificate of birth in the new
19 name and sex of such person in substantially the same form as
20 that used for other live births. The evidence from which the new
21 certificate is prepared and the original certificate of birth shall
22 be available for inspection only upon the order of a court of
23 competent jurisdiction.

24 Sec. 380. Section 71-604.05, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 71-604.05 (1) The ~~Department of Health and Human Services~~
27 ~~Finance and Support~~ department shall not file (a) a certificate

1 of live birth, (b) a certificate of delayed birth registration
2 for a registrant who is under twenty-five years of age when an
3 application for such certificate is filed, (c) a certificate of
4 live birth filed after adoption of a Nebraska-born person who is
5 under twenty-five years of age or a person born outside of the
6 jurisdiction of the United States, or (d) a certificate of live
7 birth issued pursuant to section 71-628 unless the social security
8 number or numbers issued to the parents are furnished by the person
9 seeking to register the birth. No such certificate may be amended
10 to show paternity unless the social security number of the father
11 is furnished by the person requesting the amendment. The social
12 security number shall not be required if no social security number
13 has been issued to the parent or if the social security number is
14 unknown.

15 (2) Social security numbers (a) shall be recorded on
16 the birth certificate but shall not be considered part of the
17 birth certificate and (b) shall only be used for the purpose of
18 enforcement of child support orders in Nebraska as permitted by
19 Title IV-D of the federal Social Security Act, as amended, or
20 as permitted by section 7(a) of the federal Privacy Act of 1974,
21 as amended. ~~The Department of Health and Human Services Finance~~
22 ~~and Support shall make social security numbers available to the~~
23 ~~Department of Health and Human Services for purposes permitted~~
24 ~~under Title IV-D of the federal Social Security Act, as amended.~~

25 (3) ~~The Department of Health and Human Services Finance~~
26 ~~and Support, or on receipt of a written or electronic request by~~
27 ~~the Department of Health and Human Services, department may release~~

1 data to the Social Security Administration which is necessary to
2 obtain a social security number and which is contained on the
3 birth certificate of any individual who has applied for or is
4 receiving medicaid or food stamp benefits. The ~~Department of Health~~
5 ~~and Human Services Finance and Support~~ department shall make such
6 data available only for the purpose of obtaining a social security
7 number for the individual.

8 (4) The ~~Department of Health and Human Services Finance~~
9 ~~and Support~~ department shall provide to the Social Security
10 Administration each parent's name and social security number
11 collected in the birth certification process as required by the
12 federal Taxpayer Relief Act of 1997.

13 Sec. 381. Section 71-605.01, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-605.01 Death certificates issued by or under the
16 authority of the United States for persons who were residents of
17 Nebraska at the time they entered the military or armed forces of
18 the United States, and died while in the service of their country
19 while outside the continental limits of the United States may be
20 recorded with the ~~Department of Health and Human Services Finance~~
21 ~~and Support.~~ department.

22 Sec. 382. Section 71-605.02, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-605.02 The ~~Department of Health and Human Services~~
25 ~~Finance and Support~~ department shall preserve permanently and index
26 all such certificates and shall charge and collect in advance the
27 fee prescribed in section 71-612, to be paid by the applicant for

1 each certified copy supplied to the applicant or for any search
2 made at the applicant's request for access to or a certified copy
3 of any record, whether or not the record is found on file with the
4 department. All fees so collected shall be remitted to the State
5 Treasurer for credit to the ~~Department of Health and Human Services~~
6 ~~Finance and Support~~ Health and Human Services Cash Fund as provided
7 in section 71-612.

8 Sec. 383. Section 71-606, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-606 A child born dead shall be registered as a
11 fetal death on a certificate form furnished by the ~~Department of~~
12 ~~Health and Human Services Finance and Support~~, department. Such
13 certificate shall not be required for a child which has not
14 advanced to the twentieth week of gestation. The certificate shall
15 be filed with the department by the funeral director and embalmer
16 in charge of the funeral and shall include a statement of the cause
17 of death made by a person holding a valid license as a physician
18 who was in attendance. In the event of hospital disposition, as
19 provided in section 71-20,121, the entire certificate shall be
20 completed by the attending physician and subscribed to also by the
21 hospital administrator or his or her designated representative. If
22 the attendant is not a physician, the death shall be referred to
23 the county attorney for certification. The same time limit for
24 completion shall apply as for a regular death certificate.

25 Sec. 384. Section 71-608.01, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-608.01 Persons in any county containing a city of the

1 metropolitan or primary class which has an established city-county
2 or county health department pursuant to sections 71-1626 to 71-1636
3 which has an established birth and death registration system shall
4 be exempt from the requirements of direct filing of birth and death
5 certificates required by sections 71-604, 71-605, and 71-606. The
6 certificates for the births and deaths occurring in any such county
7 shall be filed with the vital statistics office of the city-county
8 or county health department within five business days of the date
9 of the birth or death. The city-county or county health department
10 shall forward the certificates to the ~~Department of Health and~~
11 ~~Human Services Finance and Support~~ department within ten business
12 days of the date of the birth or death.

13 Sec. 385. Section 71-609, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-609 Every retail dealer in caskets shall keep a record
16 of sales, which record shall include the name and post office
17 address of the purchaser and the name and date and place of death
18 of the deceased. A report of sales or no sales shall be forwarded
19 to the ~~Department of Health and Human Services Finance and Support~~
20 department on the first day of each month. This requirement shall
21 not apply to persons selling caskets only to dealers or funeral
22 directors and embalmers. Every seller of a casket at retail who
23 does not have charge of the disposition of the body shall enclose
24 within the casket a notice calling attention to the requirements of
25 the law and a blank certificate of death.

26 Sec. 386. Section 71-610, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 71-610 Maternity homes and lying-in hospitals, and places
2 used as such, shall report to the ~~Department of Health and Human~~
3 ~~Services Finance and Support~~ department on the first day of
4 each month the sex and date of birth of all children born in
5 their respective institutions during the preceding month. The
6 report shall also show the names and addresses of the parents and
7 attending physicians.

8 Sec. 387. Section 71-611, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-611 The ~~Department of Health and Human Services~~
11 ~~Finance and Support~~ department shall supply all necessary blanks,
12 forms, and instructions pertaining to the recording of births
13 and deaths to physicians, hospitals, and funeral directors and
14 embalmers. Upon written request, the department may authorize
15 a funeral director and embalmer licensed in Nebraska to use
16 computer-generated death certificate forms on paper supplied by
17 the department which is of the same quality and identical in form
18 established in department regulations for death certificates which
19 are not computer-generated.

20 Sec. 388. Section 71-612, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-612 (1) The ~~Director of Finance and Support,~~
23 department, as the State Registrar, ~~through the Department of~~
24 ~~Health and Human Services Finance and Support~~ shall preserve
25 permanently and index all certificates received. The department
26 shall supply to any applicant for any proper purpose, as defined by
27 rules and regulations of the department, a certified copy of the

1 record of any birth, death, marriage, annulment, or dissolution of
2 marriage or an abstract of marriage. The department shall supply a
3 copy of a public vital record for viewing purposes at its office
4 upon an application signed by the applicant and upon proof of the
5 identity of the applicant. The application may include the name,
6 address, and telephone number of the applicant, purpose for viewing
7 each record, and other information as may be prescribed by the
8 department by rules and regulations to protect the integrity of
9 vital records and prevent their fraudulent use. Except as provided
10 in subsections (2), (3), (5), (6), and (7) of this section, the
11 department shall be entitled to charge and collect in advance a fee
12 of eleven dollars to be paid by the applicant for each certified
13 copy or abstract of marriage supplied to the applicant or for any
14 search made at the applicant's request for access to or a certified
15 copy of any record or abstract of marriage, whether or not the
16 record or abstract is found on file with the department.

17 (2) The department shall, free of charge, search for and
18 furnish a certified copy of any record or abstract of marriage on
19 file with the department upon the request of (a) the United States
20 Department of Veterans Affairs or any lawful service organization
21 empowered to represent veterans if the copy of the record or
22 abstract of marriage is to be issued, for the welfare of any member
23 or veteran of the armed forces of the United States or in the
24 interests of any member of his or her family, in connection with a
25 claim growing out of service in the armed forces of the nation or
26 (b) the Military Department.

27 (3) ~~The Department of Health and Human Services Finance~~

1 ~~and Support~~ department may, free of charge, search for and furnish
2 a certified copy of any record or abstract of marriage on file
3 with the department when in the opinion of the ~~Director of Finance~~
4 ~~and Support~~ department it would be a hardship for the claimant of
5 old age, survivors, or disability benefits under the federal Social
6 Security Act to pay the fee provided in this section.

7 (4) A strict account shall be kept of all funds received
8 by the department. Funds received pursuant to subsections (1),
9 (5), (6), and (8) of this section shall be remitted to the State
10 Treasurer for credit to the ~~Department of Health and Human Services~~
11 ~~Finance and Support~~ Health and Human Services Cash Fund. Money
12 credited to the fund pursuant to this section shall be used for
13 the purpose of administering the laws relating to vital statistics
14 and may be used to create a petty cash fund administered by the
15 department to facilitate the payment of refunds to individuals who
16 apply for copies or abstracts of records. The petty cash fund shall
17 be subject to section 81-104.01, except that the amount in the
18 petty cash fund shall not be less than twenty-five dollars nor more
19 than one thousand dollars.

20 (5) The department shall, upon request, conduct a search
21 of death certificates for stated individuals for the Nebraska
22 Medical Association or any of its allied medical societies or any
23 inhospital staff committee pursuant to sections 71-3401 to 71-3403.
24 If such death certificate is found, the department shall provide
25 a noncertified copy. The department shall charge a fee for each
26 search or copy sufficient to cover its actual direct costs, except
27 that the fee shall not exceed two dollars per individual search or

1 copy requested.

2 (6) The department may permit use of data from vital
3 records for statistical or research purposes under section
4 71-602 or disclose data from certificates or records to federal,
5 state, county, or municipal agencies of government for use in
6 administration of their official duties and charge and collect a
7 fee that will recover the department's cost of production of the
8 data. The department may provide access to public vital records for
9 viewing purposes by electronic means, if available, under security
10 provisions which shall assure the integrity and security of the
11 records and data base and shall charge and collect a fee that shall
12 recover the department's costs.

13 (7) In addition to the fees charged under subsection
14 (1) of this section, the department shall charge and collect an
15 additional fee of one dollar for any certified copy of the record
16 of any birth or for any search made at the applicant's request
17 for access to or a certified copy of any such record, whether
18 or not the record is found on file with the department. Any
19 county containing a city of the metropolitan class which has an
20 established city-county or county health department pursuant to
21 sections 71-1626 to 71-1636 which has an established system of
22 registering births and deaths shall charge and collect in advance a
23 fee of one dollar for any certified copy of the record of any birth
24 or for any search made at the applicant's request for such record,
25 whether or not the record is found on file with the county. All
26 fees collected under this subsection shall be remitted to the State
27 Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

1 (8) The department shall not charge other state agencies
2 the fees authorized under subsections (1) and (7) of this
3 section for automated review of any certificates or abstracts
4 of marriage. The department shall charge and collect a fee from
5 other state agencies for such automated review that will recover
6 the department's cost.

7 Sec. 389. Section 71-614, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-614 (1) On or before the fifth day of each month,
10 the county clerk of each county shall return to the ~~Department~~
11 ~~of Health and Human Services Finance and Support~~ department upon
12 suitable blank forms, to be provided by the department, a statement
13 of all marriages recorded by him or her during the preceding
14 calendar month. If no marriages were performed in the county during
15 the preceding month, a card furnished by the department indicating
16 such information shall be submitted on or before the fifth day of
17 each month to the department. Upon neglect or refusal to make such
18 returns, such county clerk shall, for each such neglect or refusal,
19 forfeit and pay the sum of twenty-five dollars for the use of the
20 proper county, to be collected as debts of like amount are now
21 collectible.

22 (2) As soon as possible after completion of an amendment
23 to a marriage license by the ~~Department of Health and Human~~
24 ~~Services Finance and Support,~~ department, the department shall
25 forward a noncertified copy of the marriage license reflecting the
26 amendment to the county clerk of the county in which the license
27 was filed. Upon receipt of the amended copy, the county clerk shall

1 make the necessary changes on the marriage license on file in his
2 or her office to reflect the amendment.

3 Sec. 390. Section 71-615, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-615 On or before the fifth day of each month, the
6 clerk of the district court of each county shall make and return
7 to the ~~Department of Health and Human Services Finance and Support,~~
8 department, upon suitable forms furnished by the department, a
9 statement of each action for annulment or dissolution of marriage
10 granted in the court of which he or she is clerk during the
11 preceding calendar month. The information shall be furnished by
12 the petitioner or his or her legal representative and presented
13 to the clerk of the court with the petition. In all cases, the
14 furnishing of the information to complete the record shall be a
15 prerequisite to the granting of the final decree. If no annulments
16 or dissolutions of marriage were granted in the county during the
17 preceding month, a card furnished by the department indicating such
18 information shall be submitted on or before the fifth day of each
19 month to the department. Upon neglect or refusal to make such
20 return, such clerk shall, for each neglect or refusal, forfeit and
21 pay the sum of twenty-five dollars for the use of the county.

22 Sec. 391. Section 71-616, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-616 The ~~Department of Health and Human Services~~
25 ~~Finance and Support~~ department shall preserve permanently and
26 index all births, deaths, marriages, and divorces received, and
27 shall tabulate statistics therefrom.

1 Sec. 392. Section 71-616.03, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-616.03 The ~~Department of Health and Human Services~~
4 ~~Finance and Support~~ department may accept for filing and issue
5 certified copies of vital records generated from microfilm,
6 imaging, electronic means, or any other medium as designated by the
7 department.

8 Sec. 393. Section 71-616.04, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-616.04 To preserve vital records, the ~~Department~~
11 ~~of Health and Human Services Finance and Support~~ department
12 may prepare typewritten, photographic, electronic, or other
13 reproductions of certificates or reports of vital records. Such
14 reproductions, when verified and approved by the department, shall
15 be accepted as the original records, and the documents from which
16 permanent reproductions have been made may be disposed of as
17 provided by rules and regulations of the department.

18 Sec. 394. Section 71-617.02, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-617.02 A notarized application may be filed with
21 the ~~Department of Health and Human Services Finance and Support~~
22 department for a delayed registration of birth of any person
23 born in the State of Nebraska whose birth is not registered
24 within one year after the date of birth. If the birth occurred
25 in the State of Nebraska at any time since the commencement in
26 1905 of mandatory registration under the laws of Nebraska, the
27 applicant shall pay the statutory file search fee prescribed by

1 section 71-612 to determine that such birth is not recorded. The
2 certificate shall be registered based upon documentary evidence
3 furnished to substantiate the alleged facts of birth. As used in
4 the Delayed Birth Registration Act, unless the context otherwise
5 requires, documentary evidence shall mean independent records each
6 of which was created for a different purpose.

7 Sec. 395. Section 71-617.06, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-617.06 Independent supporting records shall include,
10 but not be limited to, original records or certified or notarized
11 copies of:

12 (1) A recorded certificate of baptism performed under age
13 four;

14 (2) An insurance policy application personal history
15 sheet;

16 (3) A federal census record;

17 (4) A school census record;

18 (5) A military service record;

19 (6) A family Bible record when proved beyond a reasonable
20 doubt that the record was made before the child reached age four;

21 (7) Other evidence on file in the ~~Department of Health~~
22 ~~and Human Services Finance and Support~~ department taken from other
23 registrations;

24 (8) A record at least five years old or established
25 within seven years of the date of birth such as a physician's
26 certificate or an affidavit taken from physician, hospital,
27 nursing, or clinic records;

- 1 (9) An affidavit from a parent or longtime acquaintance;
2 (10) A printed notice of birth;
3 (11) A record from a birthday or baby book;
4 (12) A school record; or
5 (13) A church record.

6 An affidavit shall include the full name of the person
7 whose birth is being registered as well as the date and place of
8 birth and the basis of the affiant's knowledge of these facts.

9 Sec. 396. Section 71-617.07, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-617.07 If an applicant for a certificate of delayed
12 birth registration fails to submit the minimum documentation
13 required for the delayed registration or if the ~~Department of~~
14 ~~Health and Human Services Finance and Support~~ department has
15 reasonable cause to question the validity or adequacy of either
16 the applicant's sworn statement or the documentary evidence due
17 to conflicting evidence submitted and if the deficiencies are not
18 corrected, the department shall not issue and register a delayed
19 certificate of birth and shall advise the applicant of the reasons
20 for such action. The department shall further advise the applicant
21 of his or her right of appeal to the ~~Director of Finance and~~
22 ~~Support~~ department and then, if not satisfied, to the county court
23 as provided in section 71-617.08.

24 Sec. 397. Section 71-617.08, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-617.08 (1) If a delayed certificate of birth is denied
27 by the ~~Department of Health and Human Services Finance and Support~~

1 ~~and the Director of Finance and Support,~~ department, a petition
2 signed and sworn to by the petitioner may be filed with the
3 county court of Lancaster County, of the county of the petitioner's
4 residence, or of the county in which the birth is claimed to have
5 occurred.

6 (2) The petition shall be made on a form prescribed and
7 furnished by the ~~Department of Health and Human Services Finance~~
8 ~~and Support~~ department and shall allege:

9 (a) That the person for whom a delayed certificate of
10 birth is sought was born in this state;

11 (b) That no certificate of birth of such person can be
12 found in the files or records of the ~~Department of Health and Human~~
13 ~~Services Finance and Support,~~ department;

14 (c) That diligent efforts by the petitioner have failed
15 to obtain evidence required by sections 71-617.05 and 71-617.06
16 that is considered acceptable by the ~~Department of Health and Human~~
17 ~~Services Finance and Support,~~ department;

18 (d) That the ~~Department of Health and Human Services~~
19 ~~Finance and Support~~ department has refused to register a delayed
20 certificate of birth; and

21 (e) Such other allegations as may be required.

22 Sec. 398. Section 71-617.09, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-617.09 A statement of the ~~Director of Finance and~~
25 ~~Support~~ department indicating why a delayed certificate of birth
26 was not issued and registered and all documentary evidence which
27 was submitted to the ~~Department of Health and Human Services~~

1 ~~Finance and Support~~ department in support of such registration
2 shall accompany a petition filed under section 71-617.08.

3 Sec. 399. Section 71-617.10, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-617.10 The court shall fix a time and place for a
6 hearing upon a petition filed under section 71-617.08 and shall
7 give the ~~Department of Health and Human Services Finance and~~
8 ~~Support~~ department ten calendar days' notice of such hearing. The
9 ~~Director of Finance and Support or one of his or her~~ authorized
10 Authorized representatives of the department may appear and testify
11 in the proceeding.

12 Sec. 400. Section 71-617.11, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-617.11 If the court finds from the evidence presented
15 that the person for whom a delayed certificate of birth is sought
16 was born in this state, it shall make findings as to the place and
17 date of birth, parentage, and such other findings as the case may
18 require and shall issue an order on a form prescribed and furnished
19 by the ~~Department of Health and Human Services Finance and Support~~
20 department to establish a certificate of birth. The order shall
21 include the birth data to be registered, a description of the
22 evidence presented, and the date of the court's action.

23 Sec. 401. Section 71-617.12, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-617.12 The clerk of the court shall forward any order
26 made under section 71-617.11 to the ~~Department of Health and Human~~
27 ~~Services Finance and Support~~ department not later than the tenth

1 day of the calendar month following the month in which it was
2 entered. The order shall be registered by the department and shall
3 constitute the certificate of birth.

4 Sec. 402. Section 71-617.13, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-617.13 The ~~Department of Health and Human Services~~
7 ~~Finance and Support~~ department shall certify on a delayed
8 registration of birth that no other record of the birth is on file
9 with the department.

10 Sec. 403. Section 71-617.15, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-617.15 (1) The department shall charge and collect
13 the same fee as prescribed in subsection (1) of section 71-612
14 when an application for a delayed birth certificate is filed. All
15 such fees shall be remitted to the State Treasurer for credit to
16 the ~~Department of Health and Human Services Finance and Support~~
17 Health and Human Services Cash Fund. The department shall collect
18 an additional fee of one dollar when a delayed birth certificate
19 is issued. All amounts collected from such additional fee shall be
20 remitted to the State Treasurer for credit to the Nebraska Child
21 Abuse Prevention Fund.

22 (2) Upon request and payment of the fees required by
23 section 71-612, a certified copy of a delayed birth certificate
24 shall be furnished by the ~~Director of Finance and Support~~
25 department. All fees for a certified copy shall be handled as
26 provided in section 71-612.

27 Sec. 404. Section 71-626, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-626 (1) For each adoption of a Nebraska-born or
3 foreign-born person decreed by any court of this state, the court
4 shall require the preparation of a report of adoption on a form
5 prescribed and furnished by the ~~Department of Health and Human~~
6 ~~Services Finance and Support.~~ department. The report shall (a)
7 include the original name, date, and place of birth and the name
8 of the parent or parents of such person; (b) provide information
9 necessary to establish a new certificate of birth of the person
10 adopted; (c) provide the name and address of the child placement
11 agency, if any, which placed the child for adoption; and (d)
12 identify the decree of adoption and be certified by the clerk of
13 the court.

14 (2) Information in the possession of the petitioner
15 necessary to prepare the report of adoption shall be furnished
16 with the petition for adoption by each petitioner or his or her
17 attorney. The social or welfare agency or other person concerned
18 shall supply the court with such additional information in his
19 or her possession as may be necessary to complete the report.
20 The supplying of such information shall be a prerequisite to the
21 issuance of a decree.

22 (3) Whenever an adoption decree is amended or set aside,
23 the clerk of the court shall prepare a report thereof, which
24 shall include such facts as are necessary to identify the original
25 adoption report and the facts amended in the adoption decree as
26 shall be necessary to properly amend the birth record.

27 (4) Not later than the tenth day after the decree has

1 been entered, the clerk of such court shall forward the report to
2 the ~~Department of Health and Human Services Finance and Support~~
3 department whenever an adoptive birth certificate is to be filed or
4 has already been filed.

5 Sec. 405. Section 71-626.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-626.01 (1) The ~~Department of Health and Human Services~~
8 ~~Finance and Support~~ department shall establish a new certificate
9 of birth for a person born in the State of Nebraska whenever it
10 receives any of the following:

11 (a) A report of adoption as provided in section 71-626
12 on a form supplied by the ~~Department of Health and Human Services~~
13 ~~Finance and Support~~ department or a certified copy of the decree
14 of adoption together with the information required in such report,
15 except that a new certificate of birth shall not be established if
16 so requested in writing by the court decreeing the adoption, the
17 adoptive parents, or the adopted person; or

18 (b) A report of adoption or a certified copy of the
19 decree of adoption entered in a court of competent jurisdiction
20 of any other state or nation declaring adopted a person born in
21 the State of Nebraska, together with the information necessary to
22 identify the original certificate of birth and to establish the new
23 certificate of birth, except that a new certificate of birth shall
24 not be established when so requested by the court decreeing the
25 adoption, the adoptive parents, or the adopted person.

26 (2) The new certificate of birth for a person born in the
27 State of Nebraska shall be on the form in use at the time of its

1 preparation and shall include the following items in addition to
2 such other information as may be necessary to complete the form:

3 (a) The adoptive name of the person;

4 (b) The names and personal particulars of the adoptive
5 parents;

6 (c) The date and place of birth as transcribed from the
7 original certificate;

8 (d) The name of the attendant, printed or typed;

9 (e) The same birth number as was assigned to the original
10 certificate; and

11 (f) The original filing date.

12 The data necessary to locate the existing certificate
13 and the data necessary to complete the new certificate shall be
14 submitted to the ~~Department of Health and Human Services Finance~~
15 ~~and Support.~~ department.

16 (3) When an adoptive certificate of birth is established,
17 the actual place of birth and date of birth shall be shown.
18 It shall be substituted for the original certificate of birth.
19 Thereafter, the original certificate and the evidence of adoption
20 shall not be subject to inspection except (a) upon order of a
21 court of competent jurisdiction, (b) as provided in sections 43-138
22 to 43-140, (c) as provided in sections 43-146.11 to 43-146.13,
23 or (d) as provided by rules and regulations of the ~~Department of~~
24 ~~Health and Human Services Finance and Support.~~ department. Upon
25 receipt of notice that an adoption has been set aside, the original
26 certificate of birth shall be restored to its place in the files
27 and the new certificate and evidence shall not be subject to

1 inspection except upon order of a court of competent jurisdiction.

2 (4) Whenever a new certificate of birth is established by
3 the ~~Department of Health and Human Services Finance and Support,~~
4 department, all copies of the original certificate of birth in the
5 custody of any custodian of permanent local records in this state
6 shall be sealed from inspection.

7 (5) The ~~Department of Health and Human Services Finance~~
8 ~~and Support~~ department may adopt and promulgate such rules and
9 regulations as are necessary and proper to assist it in the
10 implementation and administration of section 71-626 and this
11 section.

12 Sec. 406. Section 71-627, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 71-627 (1) The certificate of birth of adopted children
15 shall be filed as other certificates of birth. The department shall
16 charge and collect the same fee as prescribed in subsection (1)
17 of section 71-612 for each certificate filed. All such fees shall
18 be remitted to the State Treasurer for credit to the ~~Department~~
19 ~~of Health and Human Services Finance and Support~~ Health and Human
20 Services Cash Fund. The department shall charge and collect an
21 additional fee of one dollar for each certificate issued. All
22 amounts collected from such additional fee shall be remitted to the
23 State Treasurer for credit to the Nebraska Child Abuse Prevention
24 Fund.

25 (2) Upon request and payment of the fees required by
26 section 71-612, a certified copy of an adoptive birth certificate
27 shall be furnished by the ~~Director of Finance and Support.~~

1 department. All fees for a certified copy shall be handled as
2 provided in section 71-612.

3 Sec. 407. Section 71-627.01, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-627.01 Whenever a decree of adoption is entered in
6 any court of competent jurisdiction in the State of Nebraska, as
7 to a child born in another state, the judge of the court in
8 which such decree is entered shall, on forms to be furnished by
9 the ~~Director of Finance and Support~~, department, notify the agency
10 having authority to issue adoptive birth certificates in the state
11 in which such child was born for the purpose of securing the
12 issuance of an adoptive birth certificate from the state of birth.

13 Sec. 408. Section 71-627.02, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-627.02 Upon receipt of a Report of Adoption or a
16 certified copy of a decree of adoption issued by any court
17 of competent jurisdiction in the State of Nebraska as to any
18 foreign-born person, the ~~Director of Finance and Support~~ department
19 shall prepare a birth certificate in the new name of the adopted
20 person. The birth certificate shall show specifically (1) the new
21 name of the adopted person, (2) the date of birth and sex of the
22 adopted person, (3) statistical information concerning the adoptive
23 parents in place of the natural parents, and (4) the true or
24 probable place of birth including the city or town and country.

25 Sec. 409. Section 71-628, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 71-628 In case of the legitimation of any child born

1 in Nebraska by the subsequent marriage of such child's parents as
2 provided in section 43-1406, the department, upon the receipt of a
3 certified copy of the marriage certificate or abstract of marriage
4 of the parents and a statement of the parents acknowledging
5 paternity, shall prepare a new certificate of birth in the new
6 name of the child so legitimated, in substantially the same form as
7 that used for other live births. The department shall charge and
8 collect the same fee as prescribed in subsection (1) of section
9 71-612. All such fees shall be remitted to the State Treasurer
10 for credit to the ~~Department of Health and Human Services Finance~~
11 ~~and Support~~ Health and Human Services Cash Fund. The department
12 shall charge and collect an additional fee of one dollar for each
13 new certificate of birth filed. All amounts collected from such
14 additional fee shall be remitted to the State Treasurer for credit
15 to the Nebraska Child Abuse Prevention Fund.

16 Sec. 410. Section 71-629, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-629 A certified copy or copies of the certificate
19 of birth of any such legitimized child may be furnished upon
20 request by the ~~Director of Finance and Support,~~ department, but the
21 evidence upon which the new certificate is made and the original
22 certificate of birth shall be available for inspection only upon
23 the order of a court of competent jurisdiction.

24 Sec. 411. Section 71-630, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-630 (1) A birth or death certificate filed with
27 the ~~Department of Health and Human Services Finance and Support~~

1 department may be amended only in accordance with this section
2 and sections 71-635 to 71-644 and rules and regulations adopted
3 pursuant thereto by the department as necessary and proper to
4 protect the integrity and accuracy of records of vital statistics.

5 (2) A certificate that is amended under this section
6 shall have a properly dated reference placed on the face of the
7 certificate and state that it is amended, except as provided in
8 subsection (4) of this section.

9 (3) Upon receipt of a certified copy of a court order
10 changing the name of a person born in this state and upon
11 request of such person or his or her parent, guardian, or legal
12 representative, the ~~Department of Health and Human Services Finance~~
13 ~~and Support~~ department shall amend the certificate of birth to
14 reflect the change in name.

15 (4) Upon request and receipt of a sworn acknowledgment of
16 paternity of a child born out of wedlock signed by both parents,
17 the ~~Department of Health and Human Services Finance and Support~~
18 department shall amend the certificate of birth to show such
19 paternity if paternity is not shown on the birth certificate. Such
20 certificate shall not be marked amended.

21 Sec. 412. Section 71-634, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 71-634 The department shall charge and collect the same
24 fee as prescribed in subsection (1) of section 71-612 for each
25 proceeding under sections 71-630 and 71-635 to 71-644. All fees so
26 collected shall be remitted to the State Treasurer for credit to
27 the ~~Department of Health and Human Services Finance and Support~~

1 Health and Human Services Cash Fund. The department shall collect
2 the fees required by section 71-612 for a certified copy of the
3 amended record. All fees for a certified copy shall be handled as
4 provided in section 71-612.

5 If a certificate is amended pursuant to sections 71-630
6 and 71-635 to 71-644 as the result of an error committed by the
7 department in the issuance of such certificate, the department may
8 waive any fee required under this section.

9 Sec. 413. Section 71-636, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-636 Amendment of obvious errors, of transposition of
12 letters in words of common knowledge, or of omissions on birth
13 certificates may be made by the ~~Department of Health and Human~~
14 ~~Services Finance and Support~~ department within the first year after
15 the date of the birth, either upon its own observation, upon query,
16 or upon request of a person with a direct and tangible interest in
17 the certificate. When such additions or minor amendments are made
18 by the department, a notation as to the source of the information
19 together with the date the change was made and the initials of the
20 authorized agent making the change shall be made on the reverse
21 side of the certificate in such a way as not to become a part of
22 the certificate. The certificate shall not be marked amended.

23 Sec. 414. Section 71-639, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-639 The ~~Department of Health and Human Services~~
26 ~~Finance and Support~~ department shall evaluate all evidence
27 submitted for amendments to vital records and when it finds reason

1 to question its validity or adequacy it may reject the amendment
2 and shall advise the applicant of the reasons for this action.

3 Sec. 415. Section 71-640.02, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-640.02 The ~~Department of Health and Human Services~~
6 ~~Finance and Support~~ department shall enter on the birth certificate
7 of any child born out of wedlock the name of the father of the
8 child upon receipt of (1) a certified copy of a court order showing
9 that paternity has been established or a statement in writing by
10 the father that he is the father of the child and (2) the written
11 request of (a) the parent having legal custody of the child or
12 (b) the guardian or agency having legal custody of the child. The
13 surname of the child shall be determined in accordance with section
14 71-640.03.

15 Sec. 416. Section 71-640.03, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-640.03 (1) In any case in which paternity of a child
18 is determined by a court of competent jurisdiction, the surname of
19 the child may be entered on the record the same as the surname of
20 the father.

21 (2) The surname of the child shall be the parents'
22 prerogative, except that the ~~Department of Health and Human~~
23 ~~Services Finance and Support~~ department shall not accept a birth
24 certificate with a child's surname that implies any obscene or
25 objectionable words or abbreviations.

26 Sec. 417. Section 71-641, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 71-641 (1) Until the registrant's seventh birthday, the
2 given name, for a child whose birth was recorded without a given
3 name, may be added based upon an affidavit signed by (a) both
4 parents, (b) the mother in the case of a child born out of wedlock
5 or the death or incapacity of the father, (c) the father in the
6 case of the death or incapacity of the mother, or (d) the guardian
7 or agency having legal custody of the registrant in the case of the
8 death or incapacity of both parents. A certificate amended in this
9 manner prior to the first birthday shall not be marked amended.

10 (2) After the seventh birthday, one or more items of
11 documentary evidence must be submitted to substantiate the name
12 being added.

13 (3) For a legal change of name, a certified copy of the
14 court order changing the name must be presented to the ~~Department~~
15 ~~of Health and Human Services Finance and Support~~ department along
16 with data to identify the birth certificate and a request that it
17 be amended to show the new name.

18 Sec. 418. Section 71-644, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-644 A certificate or report that is amended under
21 sections 71-635 to 71-644 shall indicate that it has been amended
22 as provided by rules and regulations of the ~~Department of Health~~
23 ~~and Human Services Finance and Support.~~ department. A record
24 shall be maintained which identifies the evidence upon which the
25 amendment was based, the date of the amendment, and the identity of
26 the person making the amendment.

27 Sec. 419. Section 71-645, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-645 It is hereby found that the occurrence of
3 malformation or inherited disease at the time of birth is a
4 tragedy for the child, the family, and the community, and a matter
5 of vital concern to the public health. In order to provide for
6 the protection and promotion of the health of the citizens of
7 the state, the ~~Department of Health and Human Services Regulation~~
8 ~~and Licensure~~ department shall have the responsibility for the
9 implementation and development of scientific investigations and
10 research concerning the causes, methods of prevention, treatment,
11 and cure of birth defects.

12 Sec. 420. Section 71-646, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-646 The ~~Director of Regulation and Licensure~~
15 department shall establish within the ~~Department of Health and~~
16 ~~Human Services Regulation and Licensure~~ a birth defects registry
17 for the purpose of initiating and conducting investigations of the
18 causes, mortality, methods of prevention, treatment, and cure of
19 birth defects and allied diseases. Any information released from
20 the registry shall be disclosed as Class I, Class II, Class III, or
21 Class IV data as provided in sections 81-663 to 81-675.

22 Sec. 421. Section 71-647, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-647 (1) The ~~Department of Health and Human Services~~
25 ~~Regulation and Licensure~~ department shall have and may exercise the
26 following powers and duties:

27 (a) To conduct scientific investigations and surveys of

1 the causes, mortality, methods of prevention, treatment, and cure
2 of birth defects;

3 (b) To publish at least annually the results of such
4 investigations and surveys for the benefit of the public health
5 and to annually collate such publications for distribution to
6 scientific organizations and qualified scientists and physicians;

7 (c) To carry on programs of professional education and
8 training of medical students, physicians, nurses, scientists, and
9 technicians in the causes, methods of prevention, treatment, and
10 cure of birth defects;

11 (d) To conduct and support clinical counseling services
12 in medical facilities; and

13 (e) To secure necessary scientific, educational,
14 training, technical, administrative, and operational personnel and
15 services including laboratory facilities by contract or otherwise
16 from public or private entities in order to carry out the purposes
17 of this section.

18 (2) Any information released from the birth defects
19 registry shall be disclosed as Class I, Class II, Class III, or
20 Class IV data as provided in sections 81-663 to 81-675.

21 Sec. 422. Section 71-648, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-648 Birth defects and allied diseases shall be
24 reported by physicians, hospitals, and persons in attendance at
25 births in the manner and on such forms as may be prescribed by the
26 ~~Department of Health and Human Services Regulation and Licensure.~~
27 department. Such reports may be included in the monthly report

1 to the department on births as required by section 71-610. Such
2 reports shall be forwarded to the department no later than the
3 tenth day of the succeeding month after the birth. When objection
4 is made by either parent to furnishing information relating to
5 the medical and health condition of a live-born child because of
6 conflict with religion, such information shall not be required to
7 be entered as provided in this section.

8 Sec. 423. Section 71-701, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-701 The Women's Health Initiative of Nebraska is
11 created within the Department of Health and Human Services.
12 ~~Regulation and Licensure.~~ The Women's Health Initiative of Nebraska
13 shall strive to improve the health of women in Nebraska by
14 fostering the development of a comprehensive system of coordinated
15 services, policy development, advocacy, and education. The
16 initiative shall:

17 (1) Serve as a clearinghouse for information regarding
18 women's health issues, including pregnancy, breast and cervical
19 cancers, acquired immunodeficiency syndrome, osteoporosis,
20 menopause, heart disease, smoking, and mental health issues as well
21 as other issues that impact women's health, including substance
22 abuse, domestic violence, teenage pregnancy, sexual assault,
23 adequacy of health insurance, access to primary and preventative
24 health care, and rural and ethnic disparities in health outcomes;

25 (2) Perform strategic planning within the Department of
26 Health and Human Services, ~~the Department of Health and Human~~
27 ~~Services Regulation and Licensure,~~ and the Department of Health and

1 ~~Human Services Finance and Support~~ to develop department-wide plans
2 for implementation of goals and objectives for women's health;

3 (3) Conduct department-wide policy analysis on specific
4 issues related to women's health;

5 (4) Coordinate pilot projects and planning projects
6 funded by the state that are related to women's health;

7 (5) Communicate and disseminate information and perform a
8 liaison function within the ~~departments~~ department and to providers
9 of health, social, educational, and support services to women;

10 (6) Provide technical assistance to communities, other
11 public entities, and private entities for initiatives in women's
12 health, including, but not limited to, community health assessment
13 and strategic planning and identification of sources of funding and
14 assistance with writing of grants; and

15 (7) Encourage innovative responses by public and private
16 entities that are attempting to address women's health issues.

17 Sec. 424. Section 71-702, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 71-702 (1) The Women's Health Initiative Advisory
20 Council is created and shall consist of not more than thirty
21 members, at least three-fourths of whom are women. At least
22 one member shall be appointed from the following disciplines:

23 (a) An obstetrician/gynecologist; (b) a nurse practitioner or
24 physician's assistant from a rural community; (c) a geriatrics
25 physician or nurse; (d) a pediatrician; (e) a community public
26 health representative from each congressional district; (f) a
27 health educator; (g) an insurance industry representative; (h) a

1 mental health professional; (i) a representative from a statewide
2 health volunteer agency; (j) a private health care industry
3 representative; (k) an epidemiologist or a health statistician; (l)
4 a foundation representative; and (m) a woman who is a health care
5 consumer from each of the following age categories: Eighteen to
6 thirty; thirty-one to forty; forty-one to sixty-five; and sixty-six
7 and older. The membership shall also include a representative of
8 the University of Nebraska Medical Center, a representative from
9 Creighton University Medical Center, the executive director of the
10 Nebraska Commission on the Status of Women or his or her designee,
11 the chief medical officer if one is appointed under section
12 ~~81-3201, 6~~ of this act, and the Title V Director of the Department
13 of Health and Human Services.

14 (2) The Governor shall appoint advisory council members
15 and shall consider and attempt to balance representation based
16 on political party affiliation, race, and different geographical
17 areas of Nebraska when making appointments. The Governor shall
18 appoint the first chairperson and vice-chairperson of the advisory
19 council. There shall be two ex officio, nonvoting members from the
20 Legislature, one of which shall be the chairperson of the Health
21 and Human Services Committee.

22 (3) The terms of the initial members shall be as follows:
23 One-third shall serve for one-year terms, one-third shall serve
24 for two-year terms, and one-third shall serve for three-year terms
25 including the members designated chairperson and vice-chairperson.
26 Thereafter members shall serve for three-year terms. Members may
27 not serve more than two consecutive three-year terms.

1 (4) The Governor shall make the appointments within three
2 months after July 13, 2000.

3 (5) The advisory council shall meet quarterly the first
4 two years. After this time the advisory council shall meet at least
5 every six months or upon the call of the chairperson or a majority
6 of the voting members. A quorum shall be one-half of the voting
7 members.

8 (6) The members of the advisory council shall be
9 reimbursed for their actual and necessary expenses as provided
10 in sections 81-1174 to 81-1177 and pursuant to policies of the
11 advisory council. Funds for reimbursement for expenses shall be
12 from the Women's Health Initiative Fund.

13 (7) The advisory council shall advise the Women's Health
14 Initiative of Nebraska in carrying out its duties under section
15 71-701 and may solicit private funds to support the initiative.

16 (8) The advisory council terminates on December 31, 2009.

17 Sec. 425. Section 71-703, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 71-703 ~~The Director of Regulation and Licensure~~
20 Department of Health and Human Services will determine how the
21 ~~Department of Health and Human Services Regulation and Licensure~~
22 department will provide personnel to carry out the Women's Health
23 Initiative of Nebraska. ~~The Director of Regulation and Licensure~~
24 department shall employ personnel, including an executive director,
25 necessary to carry out the powers and duties of the initiative.
26 The Governor's Policy Research Office, the ~~Department of Health~~
27 ~~and Human Services Finance and Support,~~ the Department of Health

1 ~~and Human Services Regulation and Licensure,~~ the Department of
2 ~~Health and Human Services,~~ department, and other state agencies as
3 necessary may provide administrative and technical support under
4 the direct supervision of the Governor. The initiative may secure
5 cooperation and assistance of other appropriate government and
6 private-sector entities for women's health issues, programs, and
7 educational materials.

8 Sec. 426. Section 71-705, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-705 The Women's Health Initiative Fund is created.
11 The fund shall consist of money received as gifts or grants or
12 collected as fees or charges from any federal, state, public,
13 or private source. Money in the fund shall be used to reimburse
14 the expenses of the Women's Health Initiative of Nebraska and
15 expenses of members of the Women's Health Initiative Advisory
16 Council. Nothing in sections 71-701 to 71-707 requires the Women's
17 Health Initiative of Nebraska to accept any private donations that
18 are not in keeping with the goals and objectives set forth by
19 the initiative and the Department of Health and Human Services.
20 ~~Regulation and Licensure.~~ No funds expended or received by or
21 through the initiative shall pay for abortion referral or abortion
22 services. Any money in the fund available for investment shall be
23 invested by the state investment officer pursuant to the Nebraska
24 Capital Expansion Act and the Nebraska State Funds Investment Act.

25 Sec. 427. Section 71-706, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 71-706 The Department of Health and Human Services

1 ~~Regulation and Licensure~~ shall have all powers necessary to
2 implement the purposes and intent of sections 71-701 to 71-707,
3 including applying for, receiving, and administering federal and
4 other public and private funds credited to the Women's Health
5 Initiative Fund. Any funds obtained for the Women's Health
6 Initiative of Nebraska shall be remitted to the State Treasurer for
7 credit to the Women's Health Initiative Fund.

8 Sec. 428. Section 71-707, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-707 The Department of Health and Human Services
11 ~~Regulation and Licensure~~ shall issue an annual report to the
12 Governor and the Legislature on September 1 for the preceding
13 fiscal year's activities of the Women's Health Initiative
14 of Nebraska. The report shall include progress reports on
15 any programs, activities, or educational promotions that were
16 undertaken by the initiative. The report shall also include a
17 status report on women's health in Nebraska and any results
18 achieved by the initiative.

19 Sec. 429. Section 71-804, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-804 For purposes of the Nebraska Behavioral Health
22 Services Act:

23 ~~(1) Administrator means the administrator of the~~
24 ~~division;~~

25 ~~(2)~~ (1) Behavioral health disorder means mental illness
26 or alcoholism, drug abuse, problem gambling, or other addictive
27 disorder;

1 ~~(3)~~ (2) Behavioral health region means a behavioral
2 health region established in section 71-807;

3 ~~(4)~~ (3) Behavioral health services means services,
4 including, but not limited to, consumer-provided services, support
5 services, inpatient and outpatient services, and residential and
6 nonresidential services, provided for the prevention, diagnosis,
7 and treatment of behavioral health disorders and the rehabilitation
8 and recovery of persons with such disorders;

9 ~~(5)~~ (4) Community-based behavioral health services or
10 community-based services means behavioral health services that are
11 not provided at a regional center;

12 ~~(6)~~ (5) Department means the Department of Health and
13 Human Services;

14 ~~(7)~~ (6) Director means the Director of Behavioral Health;
15 ~~Health and Human Services;~~

16 ~~(8)~~ (7) Division means the Division of Behavioral Health
17 Services of the department;

18 ~~(9)~~ (8) Medical assistance program means the program
19 established pursuant to the Medical Assistance Act;

20 ~~(10)~~ Nebraska Health and Human Services System means the
21 Department of Health and Human Services, the Department of Health
22 and Human Services Regulation and Licensure, and the Department of
23 Health and Human Services Finance and Support;

24 ~~(11)~~ Policy Cabinet means the Policy Cabinet of the
25 Nebraska Health and Human Services System established in section
26 81-3009;

27 ~~(12)~~ (9) Public behavioral health system means the

1 statewide array of behavioral health services for children
2 and adults provided by the public sector or private sector
3 and supported in whole or in part with funding received and
4 administered by the ~~Nebraska Health and Human Services System,~~
5 department, including behavioral health services provided under the
6 medical assistance program;

7 ~~(13)~~ (10) Regional center means one of the state
8 hospitals for the mentally ill designated in section 83-305;
9 and

10 ~~(14)~~ (11) Regional center behavioral health services or
11 regional center services means behavioral health services provided
12 at a regional center.

13 Sec. 430. Section 71-805, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 71-805 ~~(1)~~ The Division of Behavioral Health Services is
16 established within the department. The division shall establish and
17 maintain a separate budget and shall separately account for all
18 revenue and expenditures.

19 ~~(2)~~ The administrator of the division shall be appointed
20 by the Governor and confirmed by a majority of the members of
21 the Legislature. The administrator shall report to the director
22 and shall be responsible for the administration and management
23 of the division. (1) The director shall appoint a chief clinical
24 officer and a program administrator for consumer affairs for the
25 division. The chief clinical officer shall be a board-certified
26 psychiatrist and shall serve as the medical director for the
27 division and all facilities and programs operated by the division.

1 The program administrator for consumer affairs shall be a consumer
2 or former consumer of behavioral health services and shall
3 have specialized knowledge, experience, or expertise relating to
4 consumer-directed behavioral health services, behavioral health
5 delivery systems, and advocacy on behalf of consumers of behavioral
6 health services and their families. The chief clinical officer
7 and the program administrator for consumer affairs shall report to
8 the ~~administrator of the division~~, director. The Governor and the
9 director shall conduct a search for qualified candidates and shall
10 solicit and consider recommendations from interested parties for
11 such positions prior to making such appointments.

12 ~~(3)~~ (2) The ~~administrator of the division~~ director shall
13 establish and maintain an office of consumer affairs within the
14 division. The program administrator for consumer affairs shall be
15 responsible for the administration and management of the office.

16 Sec. 431. Section 71-806, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-806 (1) The division shall act as the chief behavioral
19 health authority for the State of Nebraska and shall direct
20 the administration and coordination of the public behavioral
21 health system, including, but not limited to: (a) Administration
22 and management of the division, regional centers, and any
23 other facilities and programs operated by the division; (b)
24 integration and coordination of the public behavioral health
25 system; (c) comprehensive statewide planning for the provision of
26 an appropriate array of community-based behavioral health services
27 and continuum of care; (d) coordination and oversight of regional

1 behavioral health authorities, including approval of regional
2 budgets and audits of regional behavioral health authorities; (e)
3 development and management of data and information systems; (f)
4 prioritization and approval of all expenditures of funds received
5 and administered by the division, including the establishment of
6 rates to be paid and reimbursement methodologies for behavioral
7 health services and fees to be paid by consumers of such services;
8 (g) cooperation with the ~~Department of Health and Human Services~~
9 ~~Regulation and Licensure~~ department in the licensure and regulation
10 of behavioral health professionals, programs, and facilities; (h)
11 cooperation with the ~~Department of Health and Human Services~~
12 ~~Finance and Support~~ department in the provision of behavioral
13 health services under the medical assistance program; (i) audits
14 of behavioral health programs and services; and (j) promotion of
15 activities in research and education to improve the quality of
16 behavioral health services, recruitment and retention of behavioral
17 health professionals, and access to behavioral health programs and
18 services.

19 (2) The department shall adopt and promulgate rules and
20 regulations to carry out the Nebraska Behavioral Health Services
21 Act.

22 Sec. 432. Section 71-811, Revised Statutes Cumulative
23 Supplement, 2006, is amended to read:

24 71-811 The division shall coordinate the integration
25 and management of all funds appropriated by the Legislature or
26 otherwise received by the ~~Nebraska Health and Human Services System~~
27 department from any other public or private source and ~~designated~~

1 ~~by the Policy Cabinet~~ for the provision of behavioral health
2 services to ensure the statewide availability of an appropriate
3 array of community-based behavioral health services and continuum
4 of care and the allocation of such funds to support the consumer
5 and his or her plan of treatment.

6 Sec. 433. Section 71-812, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-812 (1) The Behavioral Health Services Fund is
9 created. The fund shall be administered by the division and
10 shall contain cash funds appropriated by the Legislature or
11 otherwise received by the ~~Nebraska Health and Human Services System~~
12 department for the provision of behavioral health services from any
13 other public or private source and directed by ~~the Policy Cabinet~~
14 ~~or~~ the Legislature for credit to the fund.

15 (2) The fund shall be used to encourage and facilitate
16 the statewide development and provision of community-based
17 behavioral health services, including, but not limited to, (a) the
18 provision of grants, loans, and other assistance for such purpose
19 and (b) reimbursement to providers of such services.

20 (3) (a) Money transferred to the fund under section
21 76-903 shall be used for housing-related assistance for very
22 low-income adults with serious mental illness, except that if
23 the division determines that all housing-related assistance
24 obligations under this subsection have been fully satisfied,
25 the division may distribute any excess, up to twenty percent
26 of such money, to regional behavioral health authorities for
27 acquisition or rehabilitation of housing to assist such persons.

1 The division shall manage and distribute such funds based upon
2 a formula established by the division, in consultation with
3 regional behavioral health authorities and the ~~Department of Health~~
4 ~~and Human Services Finance and Support~~, department, in a manner
5 consistent with and reasonably calculated to promote the purposes
6 of the public behavioral health system enumerated in section
7 71-803. The division shall contract with each regional behavioral
8 health authority for the provision of such assistance. Each
9 regional behavioral health authority may contract with qualifying
10 public, private, or nonprofit entities for the provision of such
11 assistance.

12 (b) For purposes of this subsection:

13 (i) Adult with serious mental illness means a person
14 eighteen years of age or older who has, or at any time during
15 the immediately preceding twelve months has had, a diagnosable
16 mental, behavioral, or emotional disorder of sufficient duration
17 to meet diagnostic criteria identified in the most recent edition
18 of the Diagnostic and Statistical Manual of Mental Disorders and
19 which has resulted in functional impairment that substantially
20 interferes with or limits one or more major life functions. Serious
21 mental illness does not include DSM V codes, substance abuse
22 disorders, or developmental disabilities unless such conditions
23 exist concurrently with a diagnosable serious mental illness;

24 (ii) Housing-related assistance includes rental payments,
25 utility payments, security and utility deposits, and other related
26 costs and payments; and

27 (iii) Very low-income means a household income of fifty

1 percent or less of the applicable median family income estimate as
2 established by the United States Department of Housing and Urban
3 Development.

4 (4) Any money in the fund available for investment
5 shall be invested by the state investment officer pursuant to
6 the Nebraska Capital Expansion Act and the Nebraska State Funds
7 Investment Act.

8 Sec. 434. Section 71-814, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-814 (1) The State Advisory Committee on Mental Health
11 Services is created. Members of the committee shall have a
12 demonstrated interest and commitment and specialized knowledge,
13 experience, or expertise relating to the provision of mental health
14 services in the State of Nebraska. The committee shall consist of
15 twenty-three members appointed by the Governor as follows: (a) One
16 regional governing board member, (b) one regional administrator,
17 (c) twelve consumers of behavioral health services or their family
18 members, (d) two providers of behavioral health services, (e) two
19 representatives from the State Department of Education, including
20 one representative from the Division of Vocational Rehabilitation
21 of the State Department of Education, (f) three representatives
22 from the Nebraska Department of Health and Human Services System
23 representing mental health, social services, and medicaid, (g)
24 one representative from the Nebraska Commission on Law Enforcement
25 and Criminal Justice, and (h) one representative from the Housing
26 Office of the Community and Rural Development Division of the
27 Department of Economic Development.

1 (2) The committee shall be responsible to the division
2 and shall (a) serve as the state's mental health planning council
3 as required by Public Law 102-321, (b) conduct regular meetings,
4 (c) provide advice and assistance to the division relating to
5 the provision of mental health services in the State of Nebraska,
6 including, but not limited to, the development, implementation,
7 provision, and funding of organized peer support services, (d)
8 promote the interests of consumers and their families, including,
9 but not limited to, their inclusion and involvement in all aspects
10 of services design, planning, implementation, provision, education,
11 evaluation, and research, (e) provide reports as requested by the
12 division, and (f) engage in such other activities as directed or
13 authorized by the division.

14 Sec. 435. Section 71-916, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-916 (1) The Department of Health and Human Services
17 shall provide appropriate training to members and alternate members
18 of each mental health board and shall consult with consumer and
19 family advocacy groups in the development and presentation of such
20 training. Members and alternate members shall be reimbursed for any
21 actual and necessary expenses incurred in attending such training
22 in a manner and amount determined by the presiding judge of the
23 district court. No person shall remain on a mental health board
24 or be eligible for appointment or reappointment as a member or
25 alternate member of such board unless he or she has attended
26 and satisfactorily completed such training pursuant to rules and
27 regulations adopted and promulgated by the department.

1 (2) ~~The Director of Health and Human Services~~ department
2 shall provide the mental health boards with blanks for warrants,
3 certificates, and other forms and printed copies of applicable
4 rules and regulations of the department that will enable the boards
5 to carry out their powers and duties under the Nebraska Mental
6 Health Commitment Act or the Sex Offender Commitment Act.

7 Sec. 436. Section 71-919, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-919 (1) A law enforcement officer who has probable
10 cause to believe that a person is mentally ill and dangerous or
11 a dangerous sex offender and that the harm described in section
12 71-908 or subdivision (1) of section 83-174.01 is likely to occur
13 before mental health board proceedings under the Nebraska Mental
14 Health Commitment Act or the Sex Offender Commitment Act may be
15 initiated to obtain custody of the person may take such person into
16 emergency protective custody, cause him or her to be taken into
17 emergency protective custody, or continue his or her custody if
18 he or she is already in custody. Such person shall be admitted to
19 an appropriate and available medical facility, jail, or Department
20 of Correctional Services facility as provided in subsection (2) of
21 this section. Each county shall make arrangements with appropriate
22 facilities inside or outside the county for such purpose and shall
23 pay the cost of the emergency protective custody of persons from
24 such county in such facilities. A mental health professional who
25 has probable cause to believe that a person is mentally ill and
26 dangerous or a dangerous sex offender may cause such person to be
27 taken into custody and shall have a limited privilege to hold such

1 person until a law enforcement officer or other authorized person
2 arrives to take custody of such person.

3 (2) (a) A person taken into emergency protective custody
4 under this section shall be admitted to an appropriate and
5 available medical facility unless such person has a prior
6 conviction for a sex offense listed in section 29-4003.

7 (b) A person taken into emergency protective custody
8 under this section who has a prior conviction for a sex offense
9 listed in section 29-4003 shall be admitted to a jail or Department
10 of Correctional Services facility unless a medical or psychiatric
11 emergency exists for which treatment at a medical facility is
12 required. The person in emergency protective custody shall remain
13 at the medical facility until the medical or psychiatric emergency
14 has passed and it is safe to transport such person, at which time
15 the person shall be transferred to an available jail or Department
16 of Correctional Services facility.

17 (3) Upon admission to a facility of a person taken into
18 emergency protective custody by a law enforcement officer under
19 this section, such officer shall execute a written certificate
20 prescribed and provided by the ~~Director~~ Department of Health and
21 Human Services. The certificate shall allege the officer's belief
22 that the person in custody is mentally ill and dangerous or a
23 dangerous sex offender and shall contain a summary of the person's
24 behavior supporting such allegations. A copy of such certificate
25 shall be immediately forwarded to the county attorney.

26 (4) The administrator of the facility shall have such
27 person evaluated by a mental health professional as soon as

1 reasonably possible but not later than thirty-six hours after
2 admission. The mental health professional shall not be the mental
3 health professional who causes such person to be taken into custody
4 under this section and shall not be a member or alternate member
5 of the mental health board that will preside over any hearing
6 under the Nebraska Mental Health Commitment Act or the Sex Offender
7 Commitment Act with respect to such person. A person shall be
8 released from emergency protective custody after completion of such
9 evaluation unless the mental health professional determines, in
10 his or her clinical opinion, that such person is mentally ill and
11 dangerous or a dangerous sex offender.

12 Sec. 437. Section 71-961, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 71-961 (1) All records kept on any subject shall remain
15 confidential except as otherwise provided by law. Such records
16 shall be accessible to (a) the subject, except as otherwise
17 provided in subsection (2) of this section, (b) the subject's
18 legal counsel, (c) the subject's guardian or conservator, if
19 any, (d) the mental health board having jurisdiction over the
20 subject, (e) persons authorized by an order of a judge or court,
21 (f) persons authorized by written permission of the subject,
22 (g) agents or employees of the Department of Health and Human
23 Services ~~Regulation and Licensure~~ upon delivery of a subpoena
24 from the department in connection with a licensing or licensure
25 investigation by the department, (h) individuals authorized to
26 receive notice of the release of a sex offender pursuant to section
27 83-174, (i) the Nebraska State Patrol or the ~~Department of Health~~

1 ~~and Human Services~~ department pursuant to section 69-2409.01, or
2 (j) the Office of Parole Administration if the subject meets the
3 requirements for lifetime community supervision pursuant to section
4 83-174.03.

5 (2) Upon application by the county attorney or by the
6 administrator of the treatment facility where the subject is in
7 custody and upon a showing of good cause therefor, a judge of
8 the district court of the county where the mental health board
9 proceedings were held or of the county where the treatment facility
10 is located may order that the records not be made available to
11 the subject if, in the judgment of the court, the availability of
12 such records to the subject will adversely affect his or her mental
13 illness or personality disorder and the treatment thereof.

14 (3) When a subject is absent without authorization from
15 a treatment facility or program described in section 71-939 or
16 71-1223 and is considered to be dangerous to others, the subject's
17 name and description and a statement that the subject is believed
18 to be considered dangerous to others may be disclosed in order to
19 aid in the subject's apprehension and to warn the public of such
20 danger.

21 Sec. 438. Section 71-1001, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-1001 The heads of the anatomy departments of the
24 medical schools and colleges of this state, one professor of
25 anatomy appointed by the head of the anatomy department from each
26 medical school or college of this state, one professor of anatomy
27 appointed from each dental school or college of this state, and one

1 layperson appointed by the Department of Health and Human Services
2 ~~Regulation and Licensure~~ shall constitute the State Anatomical
3 Board of the State of Nebraska for the distribution, delivery, and
4 use of certain dead human bodies, described in section 71-1002,
5 to and among such schools, colleges, and persons as are entitled
6 thereto under the provisions of such section. The board shall have
7 power to establish rules and regulations for its government and
8 for the collection, storage, and distribution of dead human bodies
9 for anatomical purposes. It shall have power to appoint and remove
10 its officers and agents. It shall keep minutes of its meetings. It
11 shall cause a record to be kept of all of its transactions, of
12 bodies received and distributed by it, and of the school, college,
13 or person receiving every such body, and its records shall be open
14 at all times to the inspection of each member of the board and to
15 every county attorney within this state.

16 Sec. 439. Section 71-1301, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-1301 For purposes of sections 71-1301 to 71-1306 and
19 71-1326 to 71-1354, unless the context otherwise requires:

20 (1) Accredited school of mortuary science means a school
21 of the same type as those rated Class A by the Conference of
22 Funeral Service Examining Boards of the United States, Inc.,
23 approved by the department upon recommendation of the board;

24 (2) Apprentice means a person registered with the
25 department as an apprentice who is completing a twelve-month
26 apprenticeship under the supervision of a licensed funeral director
27 and embalmer practicing in the State of Nebraska. The licensed

1 funeral director and embalmer is responsible for all funeral
2 assists and embalmings completed by the apprentice;

3 (3) Board means the Board of Funeral Directing and
4 Embalming;

5 (4) Branch establishment means a place of business
6 situated at a specific street address or location which is a
7 subsidiary of a licensed funeral establishment, which contains a
8 casket display room, a viewing area, or an area for conducting
9 funeral services, or all of them, and where any portion of the
10 funeral service or arrangements for the disposition of a dead human
11 body is conducted;

12 (5) Casket means a receptacle for a dead human body and
13 does not include vaults, lawn crypts, mausoleums, or other outside
14 receptacles for caskets;

15 (6) Crematory authority means the legal entity subject to
16 licensure by the department to maintain and operate a crematory and
17 perform cremation;

18 (7) Department means the Division of Public Health of the
19 Department of Health and Human Services; Regulation and Licensure;

20 (8) Embalming means the practice of preparing a dead
21 human body for burial or other final disposal by a licensed funeral
22 director and embalmer or an apprentice, requesting and obtaining
23 burial or removal permits, or assuming any of the other duties
24 incident to the practice of embalming. Any person who publicly
25 professes to be a funeral director and embalmer or an apprentice is
26 deemed to be practicing embalming. The performance of the following
27 acts is also deemed to be the practice of embalming: (a) The

1 disinfection and preservation of dead human beings, entire or in
2 part; and (b) the attempted disinfection and preservation thereof
3 by the use or application of chemical substances, fluids, or gases
4 ordinarily used, prepared, or intended for such purposes, either by
5 outward application of such chemical substances, fluids, or gases
6 on the body or by introducing them into the body, by vascular or
7 hypodermic injection, or by direct introduction into the organs or
8 cavities;

9 (9) Funeral directing means (a) counseling families or
10 next of kin in regard to the conduct of a funeral service for a
11 dead human body for burial, disposition, or cremation or directing
12 or supervising burial, disposition, or cremation of dead human
13 bodies, (b) providing for or maintaining a funeral establishment,
14 or (c) the act of representing oneself as or using in connection
15 with one's name the title of funeral director, mortician, or any
16 other title implying that he or she is engaged in the business of
17 funeral directing;

18 (10) Funeral establishment means a place of business
19 situated at a specific street address or location devoted to the
20 care and preparation of dead human bodies for burial, disposition,
21 or cremation or to conducting or arranging funeral services for
22 dead human bodies;

23 (11) Licensee means a person licensed by the department
24 as a funeral director and embalmer on or after January 1, 1994,
25 or a person licensed as a funeral director or embalmer prior to
26 January 1, 1994;

27 (12) Licensure examination means a national standardized

1 examination, the state jurisprudence examination, and the vital
2 statistic forms examination; and

3 (13) Supervision means the direct oversight or the easy
4 availability of the supervising funeral director and embalmer. The
5 first twenty-five funeral assists and embalmings shall be completed
6 under direct onsite supervision of the supervising funeral director
7 and embalmer.

8 Sec. 440. Section 71-1333.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-1333.01 (1) The department shall deny an application
11 for a license as a funeral establishment or branch establishment,
12 revoke or suspend a license, or refuse renewal of such a license on
13 any of the following grounds:

14 (a) Conviction of any crime involving moral turpitude;

15 (b) Obtaining a license as a funeral establishment or a
16 branch establishment by false representation or fraud;

17 (c) Operating a funeral establishment or branch
18 establishment without a manager responsible for the operations of
19 the establishment;

20 (d) A conviction of a violation of any of the provisions
21 of sections 71-147, 71-148, 71-1301 to 71-1306, and 71-1326 to
22 71-1354;

23 (e) Unprofessional conduct, which is hereby defined to
24 include (i) misrepresentation or fraud in the conduct of a funeral
25 establishment or branch establishment or (ii) aiding or abetting an
26 unlicensed person to practice funeral directing and embalming; or

27 (f) Violation of the rules and regulations governing the

1 practice of funeral directing and embalming.

2 (2) If the department determines to deny the application
3 for a license as or to revoke, suspend, or refuse renewal of
4 the license of a funeral establishment or branch establishment,
5 it shall send to the applicant or licensee, by certified mail, a
6 notice setting forth the particular reasons for the determination.
7 The denial, revocation, suspension, or refusal of renewal shall
8 become final thirty days after the mailing of the notice unless
9 the applicant or licensee, within such thirty-day period, requests
10 a hearing in writing. The applicant or licensee shall be given a
11 fair hearing before the department and may present such evidence
12 as may be proper. On the basis of such evidence, the determination
13 involved shall be affirmed or set aside and a copy of such decision
14 setting forth the finding of facts and the particular reasons
15 upon which it is based shall be sent by certified mail to the
16 applicant or licensee. The decision shall become final thirty days
17 after a copy of such decision is mailed unless the applicant
18 or licensee within such thirty-day period appeals the decision
19 pursuant to section 71-1333.03. The procedure governing hearings
20 authorized by this section shall be in accordance with rules and
21 regulations adopted and promulgated by the department. A full and
22 complete record shall be kept of all proceedings. Witnesses may be
23 subpoenaed by either party and shall be allowed a fee at a rate
24 prescribed by the rules and regulations of the department.

25 (3) The proceeding shall be summary in its nature and
26 triable as an equity action. Affidavits may be received in evidence
27 in the discretion of the department. The department shall have the

1 power to administer oaths, to subpoena witnesses and compel their
2 attendance, and to issue subpoenas duces tecum and require the
3 production of books, accounts, and documents in the same manner
4 and to the same extent as the district courts of the state.
5 Depositions may be used by either party. Upon the completion of any
6 hearing, the ~~director~~ Director of Public Health may, through entry
7 of an order, exercise ~~in his or her discretion~~ any or all of the
8 following powers:

- 9 (a) Issue a censure against the manager;
- 10 (b) Place the manager on probation;
- 11 (c) Place a limitation or limitations on the license and
12 upon the right of the manager to operate a funeral establishment
13 or branch establishment to the extent, scope, or type of operation,
14 for such time, and under such conditions as the director finds
15 necessary and proper. The director shall consult with the board in
16 all instances prior to issuing an order of limitation;
- 17 (d) Impose a civil penalty not to exceed twenty thousand
18 dollars;
- 19 (e) Enter an order of suspension of the license;
- 20 (f) Enter an order of revocation of the license; or
- 21 (g) Dismiss the action.

22 (4) The manager of a funeral establishment or branch
23 establishment shall not operate such establishment after its
24 license is revoked or during the time for which it is suspended.
25 If a funeral establishment or branch establishment license is
26 suspended, the suspension shall be for a definite period of time
27 to be fixed by the ~~director~~ Director of Public Health. Such

1 license shall be automatically reinstated upon the expiration of
2 such period if the current renewal fees have been paid. If such
3 license is revoked, such revocation shall be permanent, except that
4 at any time after the expiration of two years application may be
5 made for reinstatement of any manager whose funeral establishment
6 or branch establishment license has been revoked. Such application
7 shall be addressed to the director but may not be received or filed
8 by him or her unless accompanied by a written recommendation of
9 reinstatement by the board.

10 (5) The amount of any civil penalty assessed under
11 this section shall be based on the severity of the violation.
12 If any violation is a repeated or continuing violation, each
13 violation or each day a violation continues shall constitute a
14 separate violation for the purpose of computing the applicable
15 civil penalty, if any. The department may adopt and promulgate the
16 necessary rules and regulations concerning notice and hearing of
17 such application. Any civil penalty assessed and unpaid under this
18 section shall constitute a debt to the State of Nebraska which
19 may be collected in the manner of a lien foreclosure or sued for
20 and recovered in a proper form of action in the name of the state
21 in the district court of the county in which the violator resides
22 or owns property. The department shall remit any collected civil
23 penalty to the State Treasurer, within thirty days after receipt,
24 for distribution in accordance with Article VII, section 5, of
25 the Constitution of Nebraska. The department shall within thirty
26 days from receipt remit any collected civil penalty to the State
27 Treasurer for credit to the permanent school fund.

1 Sec. 441. Section 71-1340, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1340 A decedent, prior to his or her death, may direct
4 the preparation for the final disposition of his or her remains
5 by written instructions. If such instructions are in a will or
6 other written instrument, the decedent may direct that the whole
7 or any part of such remains be given to a teaching institution,
8 university, college, or legally licensed hospital, to the ~~Director~~
9 ~~of Regulation and Licensure,~~ Director of Public Health, or to or
10 for the use of any nonprofit blood bank, artery bank, eye bank,
11 or other therapeutic service operated by any agency approved by
12 the ~~Director of Regulation and Licensure~~ director under rules and
13 regulations established by the director. The person or persons
14 otherwise entitled to control the disposition of the remains under
15 this section shall faithfully carry out the directions of the
16 decedent.

17 If such instructions are contained in a will or other
18 written instrument, they shall be immediately carried out,
19 regardless of the validity of the will in other respects or of the
20 fact that the will may not be offered for or admitted to probate
21 until a later date.

22 This section shall be administered and construed to
23 the end that such expressed instructions of any person shall be
24 faithfully and promptly performed.

25 A funeral director and embalmer, physician, or cemetery
26 authority shall not be liable to any person or persons for
27 carrying out such instructions of the decedent, and any teaching

1 institution, university, college, or legally licensed hospital or
2 the ~~Director of Regulation and Licensure~~ Director of Public Health
3 shall not be liable to any person or persons for accepting the
4 remains of any deceased person under a will or other written
5 instrument as set forth in this section.

6 Sec. 442. Section 71-1341, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-1341 A written authorization for an autopsy given by
9 the survivor or survivors, as enumerated in section 71-1339, having
10 the right to control the disposition of remains may, subject to
11 section 23-1824 and when not inconsistent with any directions given
12 by the decedent pursuant to section 71-1340, include authorization
13 for the removal of any specifically named organ or organs for
14 therapeutic or scientific purposes. Pursuant to any such written
15 authorization, any structure or organ may be given to the ~~Director~~
16 ~~of Regulation and Licensure~~ Director of Public Health or to
17 any other therapeutic service operated by any nonprofit agency
18 approved by the ~~Director of Regulation and Licensure~~, director,
19 including, but not limited to, a teaching institution, university,
20 college, legally licensed hospital, nonprofit blood bank, nonprofit
21 artery bank, nonprofit eye bank, or nationally recognized nonprofit
22 hormone and pituitary program. The person or persons performing any
23 autopsy shall do so within a reasonable time and without delay and
24 shall not exceed the removal permission contained in such written
25 authorization, and the remains shall not be significantly altered
26 in external appearance nor shall any portion thereof be removed for
27 purposes other than those expressly permitted in this section.

1 Sec. 443. Section 71-1356, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1356 For purposes of the Cremation of Human Remains
4 Act, unless the context otherwise requires:

5 (1) Alternative container means a container in which
6 human remains are placed in a cremation chamber for cremation;

7 (2) Authorizing agent means a person vested with the
8 right to control the disposition of human remains pursuant to
9 section 71-1339;

10 (3) Casket means a rigid container made of wood, metal,
11 or other similar material, ornamented and lined with fabric, which
12 is designed for the encasement of human remains;

13 (4) Cremated remains means the residue of human
14 remains recovered after cremation and the processing of such
15 remains by pulverization, leaving only bone fragments reduced to
16 unidentifiable dimensions, and the unrecoverable residue of any
17 foreign matter, such as eyeglasses, bridgework, or other similar
18 material, that was cremated with the human remains;

19 (5) Cremated remains receipt form means a form provided
20 by a crematory authority to an authorizing agent or his or her
21 representative that identifies cremated remains and the person
22 authorized to receive such remains;

23 (6) Cremation means the technical process that uses heat
24 and evaporation to reduce human remains to bone fragments;

25 (7) Cremation chamber means the enclosed space within
26 which a cremation takes place;

27 (8) Crematory means a building or portion of a building

1 which contains a cremation chamber and holding facility;

2 (9) Crematory authority means the legal entity subject to
3 licensure by the department to maintain and operate a crematory and
4 perform cremation;

5 (10) Crematory operator means a person who is responsible
6 for the operation of a crematory;

7 (11) Delivery receipt form means a form provided by a
8 funeral establishment to a crematory authority to document the
9 receipt of human remains by such authority for the purpose of
10 cremation;

11 (12) Department means the Division of Public Health
12 of the Department of Health and Human Services; ~~Regulation and~~
13 ~~Licensure;~~

14 (13) Director means the Director of ~~Regulation and~~
15 ~~Licensure;~~ Public Health of the Division of Public Health;

16 (14) Funeral director has the same meaning as in section
17 71-507;

18 (15) Funeral establishment has the same meaning as in
19 section 71-1301;

20 (16) Holding facility means the area of a crematory
21 designated for the retention of human remains prior to cremation
22 and includes a refrigerated facility;

23 (17) Human remains means the body of a deceased person,
24 or a human body part, in any stage of decomposition and includes
25 limbs or other portions of the anatomy that are removed from a
26 person or human remains for medical purposes during treatment,
27 surgery, biopsy, autopsy, or medical research;

1 (18) Permanent container means a receptacle made of
2 durable material for the long-term placement of cremated remains;
3 and

4 (19) Temporary container means a receptacle made of
5 cardboard, plastic, or other similar material in which cremated
6 remains are placed prior to the placement of such remains in an urn
7 or other permanent container.

8 Sec. 444. Section 71-1363, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-1363 (1) The fee for an initial or renewal license as
11 a crematory authority shall include a fee of three hundred dollars.

12 (2) If the license application is denied, the license fee
13 shall be returned to the applicant, except that the department may
14 retain up to twenty-five dollars as an administrative fee and may
15 retain the entire license fee if an inspection has been completed
16 prior to such denial.

17 (3) The department shall collect the same fee as provided
18 in subsection (1) of this section for reinstatement of a license
19 that has lapsed or has been suspended. The department shall collect
20 a fee of ten dollars for a duplicate original license.

21 (4) The department shall collect a fee of twenty-five
22 dollars for a certified statement that a crematory authority is
23 licensed in this state and a fee of five dollars for verification
24 that a crematory authority is licensed in this state.

25 (5) The department shall adopt and promulgate rules and
26 regulations for the establishment of fees under the Cremation of
27 Human Remains Act.

1 (6) The department shall collect fees authorized under
2 the act and shall remit such fees to the State Treasurer for
3 credit to the ~~Department of Health and Human Services Regulation~~
4 ~~and Licensure~~ Health and Human Services Cash Fund. Such fees shall
5 only be used for activities related to the licensure of crematory
6 authorities.

7 Sec. 445. Section 71-1367, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-1367 The department may deny or refuse to renew
10 a license under the Cremation of Human Remains Act or take
11 disciplinary action against a crematory authority licensed under
12 the act as provided in section 71-1368 on any of the following
13 grounds:

14 (1) Violation of the Cremation of Human Remains Act or
15 rules and regulations adopted and promulgated under the act;

16 (2) Conviction of any crime involving moral turpitude;

17 (3) Conviction of a misdemeanor or felony under state
18 law, federal law, or the law of another jurisdiction which, if
19 committed within this state, would have constituted a misdemeanor
20 or felony and which has a rational connection with the fitness or
21 capacity of the crematory authority to operate a crematory;

22 (4) Conviction of a violation pursuant to section
23 71-1371;

24 (5) Obtaining a license as a crematory authority by false
25 representation or fraud;

26 (6) Misrepresentation or fraud in the operation of a
27 crematory; or

1 (7) Failure to allow access by an agent or employee of
2 the Department of Health and Human Services, ~~the Department of~~
3 ~~Health and Human Services Finance and Support,~~ or the Department of
4 ~~Health and Human Services Regulation and Licensure~~ to a crematory
5 operated by the crematory authority for the purposes of inspection,
6 investigation, or other information collection activities necessary
7 to carry out the duties of such department.

8 Sec. 446. Section 71-1368, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-1368 (1) The department may impose any one or more
11 of the following types of disciplinary action against a crematory
12 authority licensed under the Cremation of Human Remains Act:

13 (a) A fine not to exceed five hundred dollars per
14 violation;

15 (b) A limitation on the license and upon the right of the
16 crematory authority to operate a crematory to the extent, scope, or
17 type of operation, for such time, and under such conditions as the
18 director finds necessary and proper;

19 (c) Placement of the license on probation for a period
20 not to exceed two years during which the crematory may continue to
21 operate under terms and conditions fixed by the order of probation;

22 (d) Suspension of the license for a period not to exceed
23 two years during which the crematory may not operate; and

24 (e) Revocation and permanent termination of the license.

25 (2) Any fine imposed and unpaid under the Cremation of
26 Human Remains Act shall constitute a debt to the State of Nebraska
27 which may be collected in the manner of a lien foreclosure or sued

1 for and recovered in any proper form of action in the name of the
2 State of Nebraska in the district court of the county in which
3 the crematory is located. The department shall remit fines to the
4 State Treasurer, within thirty days after receipt, for distribution
5 in accordance with Article VII, section 5, of the Constitution of
6 Nebraska. The department shall, within thirty days after receipt,
7 remit any such fines to the State Treasurer for credit to the
8 permanent school fund.

9 Sec. 447. Section 71-1405, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-1405 (1) Within thirty days after the date of the
12 birth of any child born in this state with visible congenital
13 deformities, the physician, certified nurse midwife, or other
14 person in attendance upon such birth shall prepare and file with
15 the Department of Health and Human Services ~~Finance and Support~~
16 a statement setting forth such visible congenital deformity. The
17 form of such statement shall be prepared by the ~~Director of Finance~~
18 ~~and Support~~ department and shall be a part of the birth report
19 furnished by the department.

20 (2) For purposes of this section, congenital deformities
21 include a cleft lip, cleft palate, hernia, congenital cataract,
22 or disability resulting from congenital or acquired heart disease,
23 or any congenital abnormality or orthopedic condition that can be
24 cured or materially improved. The orthopedic condition or deformity
25 includes any deformity or disease of childhood generally recognized
26 by the medical profession, and it includes deformities resulting
27 from burns.

1 Sec. 448. Section 71-1617, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1617 In formulating rules, regulations, or other
4 orders for the establishment of a health district or the carrying
5 out of the purpose of sections 71-1601 to 71-1625 or for the
6 management or control of any property which may come under the care
7 or management of the board, the board and the director selected
8 pursuant to section 71-1616 shall conform at least to the minimum
9 requirements, rules, and regulations of the Department of Health
10 and Human Services, ~~the Department of Health and Human Services~~
11 ~~Regulation and Licensure,~~ and the Department of Health and Human
12 ~~Services Finance and Support~~ and the principles of public health
13 and sanitation and the remedial care and treatment of the indigent
14 sick people recognized by the medical profession.

15 Sec. 449. Section 71-1626, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 71-1626 For purposes of sections 71-1626 to 71-1636:

18 (1) Core public health functions means assessment, policy
19 development, and assurance designed to protect and improve the
20 health of persons within a geographically defined community by (a)
21 emphasizing services to prevent illness, disease, and disability,
22 (b) promoting effective coordination and use of community
23 resources, and (c) extending health services into the community,
24 including public health nursing, disease prevention and control,
25 public health education, and environmental health services;

26 (2) County, district, or city-county health department
27 means a governmental entity approved by the Department of

1 Health and Human Services ~~Regulation and Licensure~~ as a local
2 full-time public health service which (a) utilizes local, state,
3 federal, and other funds or any combination thereof, (b) employs
4 qualified public health medical, nursing, environmental health,
5 health education, and other essential personnel who work under
6 the direction and supervision of a full-time qualified medical
7 director or of a full-time qualified lay administrator and are
8 assisted at least part time by at least one medical consultant who
9 shall be a licensed physician, and (c) is operated in conformity
10 with the rules, regulations, and policies of the Department of
11 Health and Human Services, ~~the Department of Health and Human~~
12 ~~Services Regulation and Licensure,~~ and the Department of Health and
13 ~~Human Services Finance and Support.~~ The medical director or lay
14 administrator shall be called the health director; and

15 (3) Local public health department means a county,
16 district, or city-county health department.

17 Sec. 450. Section 71-1628, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-1628 The county board of any county may (1) make an
20 agreement with the Department of Health and Human Services, ~~the~~
21 ~~Department of Health and Human Services Regulation and Licensure,~~
22 ~~or the Department of Health and Human Services Finance and Support~~
23 relative to the expenditure of local, state, federal, and other
24 funds or any combination thereof, available for public health in
25 such county; (2) after notice and public hearing, establish and
26 maintain a single full-time local health department for such county
27 and any other counties which combine for that purpose and, pursuant

1 to such combination or agreement, such counties may cooperate
2 with one another and the Department of Health and Human Services
3 ~~Regulation and Licensure~~ and may contribute to a joint fund in
4 carrying out the purpose and intent of sections 71-1626 to 71-1636.
5 The duration and nature of such agreement shall be evidenced by
6 the resolutions of the county boards of such counties, and such
7 agreement shall be submitted to and approved by the Department
8 of Health and Human Services; ~~Regulation and Licensure~~; or (3)
9 cooperate with any city in the establishment and maintenance of
10 a city-county health department as provided in section 71-1630.
11 The duration and nature of such an agreement shall be evidenced
12 by resolutions of the city council of the city and the county
13 board participating, and such agreement shall be submitted to
14 and approved by the Department of Health and Human Services.
15 ~~Regulation and Licensure~~. A city-county health department shall be
16 administered as provided in the agreement between the county and
17 the city and shall be considered a state-approved, local, full-time
18 public health service.

19 Sec. 451. Section 71-1628.05, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-1628.05 Each local public health department shall
22 prepare an annual report regarding the core public health functions
23 carried out by the department in the prior fiscal year. The report
24 shall be submitted to the Department of Health and Human Services
25 ~~Regulation and Licensure~~ by October 1. The Department of Health and
26 Human Services ~~Regulation and Licensure~~ shall compile the reports
27 and submit the results to the Health and Human Services Committee

1 of the Legislature by December 1.

2 Sec. 452. Section 71-1628.06, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 71-1628.06 The Department of Health and Human Services
5 ~~Regulation and Licensure~~ shall employ two full-time persons with
6 expertise in the public health field to provide technical expertise
7 in carrying out core public health functions and essential elements
8 and coordinate the dissemination of materials to the local public
9 health departments.

10 Sec. 453. Section 71-1628.07, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-1628.07 (1) The Department of Health and Human
13 Services ~~Regulation and Licensure~~ shall establish a satellite
14 office of minority health in each congressional district to
15 coordinate and administer state policy relating to minority health.
16 Each office shall implement a minority health initiative in
17 counties with a minority population of at least five percent of the
18 total population of the county as determined by the most recent
19 federal decennial census which shall target, but not be limited
20 to, infant mortality, cardiovascular disease, obesity, diabetes,
21 and asthma.

22 (2) Each office shall prepare an annual report regarding
23 minority health initiatives implemented in the immediately
24 preceding fiscal year. The report shall be submitted to the
25 department by October 1. The department shall submit such reports
26 to the Health and Human Services Committee of the Legislature by
27 December 1.

1 Sec. 454. Section 71-1630, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1630 (1) When a health department has been established
4 by the county board of a county and approved by the Department
5 of Health and Human Services ~~Regulation and Licensure~~ as a county
6 health department, the county board of such county shall appoint
7 a board of health which shall consist of the following members:

8 (a) One member of the county board; (b) one dentist; (c) one
9 physician; and (d) six public-spirited men or women interested in
10 the health of the community. The physician and dentist shall each
11 serve an initial term of three years. Three public-spirited men
12 or women shall each serve an initial term of three years, and
13 three public-spirited men or women shall each serve an initial
14 term of two years. After the initial terms of office expire, each
15 new appointment shall be for a term of three years. Appointments
16 to fill any vacancies shall be for the unexpired term of the
17 member whose term is being filled by such appointment. A county
18 association or society of dentists or physicians or its managing
19 board may submit each year to the county board a list of three
20 persons of recognized ability in such profession. If such a list
21 is submitted, the county board, in making an appointment for such
22 profession, shall consider the names on the list and may appoint
23 one of the persons so named.

24 (2) When a district health department has been
25 established by a joint resolution of the county boards of each
26 county in a district health department, the county boards of such
27 district shall meet and establish a district board of health with

1 due consideration for a fair and equitable representation from
2 the entire area to be served. The district board of health shall
3 consist of the following members: (a) One member of each county
4 board in the district, (b) at least one physician, (c) at least
5 one dentist, and (d) one or more public-spirited men or women
6 interested in the health of the community from each county in the
7 district. One-third of the members shall be appointed for terms
8 of one year, one-third for terms of two years, and one-third for
9 terms of three years. After their terms of office expire, each
10 new appointment shall be for a term of three years. Appointments
11 to fill any vacancies shall be for the unexpired terms. A county
12 association or society of dentists or physicians or its managing
13 board may submit each year to the county boards a list of three
14 persons of recognized ability in such profession. If such a list
15 is submitted, the county boards, in making an appointment for such
16 profession, shall consider the names on the list and may appoint
17 one of the persons so named.

18 (3) Except as provided in subsection (4) of this section,
19 when the county board of any county and the city council of
20 any city located in such county have executed an agreement,
21 approved by the Department of Health and Human Services, ~~Regulation~~
22 ~~and Licensure,~~ for maintaining a city-county health department,
23 the city and county shall establish a city-county board of
24 health. It shall consist of the following members selected by
25 a majority vote of the city council and the county board, with
26 due consideration to be given in an endeavor to secure a fair and
27 equitable representation from the entire area to be served: (a)

1 One representative of the county board, (b) one representative from
2 the city council, (c) one physician, (d) one dentist, and (e) five
3 public-spirited men or women, not employed in the health industry
4 or in the health professions, who are interested in the health
5 of the community. One-third of its members shall be appointed for
6 terms of one year, one-third for terms of two years, and one-third
7 for terms of three years. After their terms of office expire, each
8 new appointment shall be for a period of three years. A county
9 association or society of dentists or physicians or its managing
10 board may submit each year to the city council and the county board
11 a list of three persons of recognized ability in such profession.
12 If such a list is submitted, the city council and the county board,
13 in making an appointment for such profession, shall consider the
14 names on the list and may appoint one of the persons so named.

15 (4) (a) When the county board of any county having a
16 population of more than two hundred thousand inhabitants and the
17 city council of any city located in such county have executed an
18 agreement, approved by the Department of Health and Human Services,
19 ~~Regulation and Licensure~~, for maintaining a city-county health
20 department on or after January 1, 1997, the city and county shall
21 establish a city-county board of health. The board shall consist
22 of the following members to be appointed by the mayor with the
23 consent of the city council and county board: One representative
24 of the county board, one representative from the city council, one
25 physician, one dentist, and five public-spirited persons who are
26 interested in the health of the community. Three of the members
27 shall be appointed for terms of one year, three for terms of two

1 years, and three for terms of three years. After the initial terms
2 of office expire, each successor member shall be appointed for a
3 term of three years. The physician and dentist members shall be
4 appointed as provided in this subdivision. The mayor shall invite
5 the local county association or society of dentists or physicians
6 or its managing board to timely submit to the mayor a list of
7 three persons of recognized ability in the profession. A list
8 is timely submitted if it is submitted within sixty days after
9 the mayor's invitation. If the list is not timely submitted, the
10 mayor may consider the list timely submitted at any time prior to
11 making an appointment, otherwise the mayor shall appoint a person
12 of recognized ability in the profession. If the list is timely
13 submitted, the mayor shall consider the names on the list and shall
14 either appoint one of the persons on the list or invite a list of
15 three new names using the process provided in this subdivision.

16 (b) The board of health shall, immediately after
17 appointment, meet and organize by the election of one of its own
18 members as president and one as vice president. The board members
19 may elect such other officers as they deem necessary and may adopt
20 and promulgate rules for the guidance of the board which are not
21 inconsistent with law or the agreement creating the board. If
22 any board member resigns or ceases to meet the requirements for
23 eligibility on the board, or if there is any other vacancy on the
24 board, the mayor shall appoint another representative to serve for
25 the member's unexpired term subject to consent by a majority vote
26 of both the city council and the county board. Any appointment to
27 fill a vacancy on the board shall be for the unexpired term of the

1 member whose vacancy is being filled.

2 (c) The board of health shall have the following duties:

3 (i) Assessment of community health status and available
4 resources for health matters, including collecting and analyzing
5 relevant data and annually reporting and making recommendations on
6 improving public health matters to the mayor, city council, and
7 county board;

8 (ii) Policy development for proposals before the board
9 of health, the city council, and the county board to support and
10 improve public health, including appointing, with the approval of
11 the mayor, city council, and county board, advisory committees to
12 the board of health to facilitate community development functions
13 and coalition building related to public health and adopting
14 and approving official health department policies consistent with
15 applicable law and approved by the affirmative vote of not less
16 than five board members at a regular meeting of the board in the
17 following areas:

18 (A) Community health services and health promotion and
19 outreach, specifically including policies related to the following:

20 (I) Client services and fees;

21 (II) Standing orders, supervision, screening, and
22 emergency and referral protocols and procedures;

23 (III) Monitoring and reporting; and

24 (IV) Communicable disease investigation, immunization,
25 vaccination, testing, and prevention measures, including measures
26 to arrest the progress of communicable diseases;

27 (B) Environmental health, specifically including policies

1 related to the following:

2 (I) Permitting, inspection, and enforcement;

3 (II) Monitoring, sampling, and reporting;

4 (III) Technical assistance and plan review; and

5 (IV) Prevention measures;

6 (C) Investigating and controlling diseases and injury,

7 specifically including policies related to the following:

8 (I) Permitting, inspection, and enforcement;

9 (II) Monitoring, sampling, and reporting;

10 (III) Technical assistance and plan review; and

11 (IV) Prevention measures; and

12 (D) Other health matters as may be requested by the city

13 council or county board; and

14 (iii) Assurance that needed services are available

15 through public or private sources in the community, including:

16 (A) Acting in an advisory capacity to review and

17 recommend changes to ordinances, resolutions, and resource

18 allocations before the city council or county board related to

19 health matters;

20 (B) Annually reviewing and recommending changes in the

21 proposed budget for resource allocations related to the health

22 department as provided in the city-county agreement; and

23 (C) Monitoring and reviewing the enforcement of laws and

24 regulations of the board of health, city council, and county board

25 related to public health in the community.

26 (d) The mayor of the city shall appoint, with the

27 approval of the board of health, city council, and county board,

1 the health director of the health department. The health director
2 shall be a member of the unclassified service of the city under
3 the direction and supervision of the mayor. The health director
4 shall be well-trained in public health work, but he or she need
5 not be a graduate of an accredited medical school. If the health
6 director is not a graduate of an accredited medical school, the
7 health director shall be assisted at least part time by at least
8 one medical consultant who is a licensed physician. The mayor shall
9 submit the health department budget to the city council and county
10 board. The mayor shall also provide budget information to the board
11 of health with sufficient time to allow such board to consider
12 such information. The mayor may enter into contracts and accept
13 grants on behalf of the health department. The mayor may terminate
14 the health director with approval of a majority vote of the city
15 council, the county board, and the board of health. The health
16 director shall:

17 (i) Provide administrative supervision of the health
18 department;

19 (ii) Make all necessary sanitary and health
20 investigations and inspections;

21 (iii) Investigate the existence of any contagious or
22 infectious disease and adopt measures to arrest the progress of the
23 disease;

24 (iv) Distribute free, as the local needs may require, all
25 vaccines, drugs, serums, and other preparations obtained from the
26 Department of Health and Human Services or otherwise provided for
27 public health purposes;

1 (v) Give professional advice and information to school
2 authorities and other public agencies on all matters pertaining to
3 sanitation and public health;

4 (vi) Inform the board of health when the city council or
5 county board is considering proposals related to health matters or
6 has otherwise requested recommendations from the board of health;

7 (vii) Inform the board of health of developments in the
8 field of public health and of any need for updating or adding to or
9 deleting from the programs of the health department; and

10 (viii) Perform duties and functions as otherwise provided
11 by law.

12 Sec. 455. Section 71-1631, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 71-1631 Except as provided in subsection (4) of section
15 71-1630, the board of health of each county, district, or
16 city-county health department organized under sections 71-1626
17 to 71-1636 shall, immediately after appointment, meet and organize
18 by the election of one of its own members as president, one as
19 vice president, and another as secretary and, either from its own
20 members or otherwise, a treasurer and shall have the power set
21 forth in this section. The board may elect such other officers
22 as it may deem necessary and may adopt and promulgate such rules
23 and regulations for its own guidance and for the government of
24 such health department as may be necessary, not inconsistent with
25 sections 71-1626 to 71-1636. The board of health shall, with the
26 approval of the county board and the municipality, whenever a city
27 is a party in such a city-county health department:

1 (1) Select the health director of such department who
2 shall be (a) well-trained in public health work though he or she
3 need not be a graduate of an accredited medical school, but if he
4 or she is not such a graduate, he or she shall be assisted at
5 least part time by at least one medical consultant who shall be
6 a licensed physician, (b) qualified in accordance with the state
7 personnel system, and (c) approved by the Department of Health and
8 Human Services; ~~Regulation and Licensure;~~

9 (2) Hold an annual meeting each year, at which meeting
10 officers shall be elected for the ensuing year;

11 (3) Hold meetings quarterly each year;

12 (4) Hold special meetings upon a written request signed
13 by two of its members and filed with the secretary;

14 (5) Provide suitable offices, facilities, and equipment
15 for the health director and assistants and their pay and traveling
16 expenses in the performance of their duties, with mileage to be
17 computed at the rate provided in section 81-1176;

18 (6) Publish, on or soon after the second Tuesday in July
19 of each year, in pamphlet form for free distribution, an annual
20 report showing (a) the condition of its trust for each year, (b)
21 the sums of money received from all sources, giving the name of any
22 donor, (c) how all money has been expended and for what purpose,
23 and (d) such other statistics and information with regard to the
24 work of such health department as may be of general interest;

25 (7) Enact rules and regulations, subsequent to public
26 hearing held after due public notice of such hearing by publication
27 at least once in a newspaper having general circulation in the

1 county or district at least ten days prior to such hearing,
2 and enforce the same for the protection of public health and
3 the prevention of communicable diseases within its jurisdiction,
4 subject to the review and approval of such rules and regulations
5 by the Department of Health and Human Services; ~~Regulation and~~
6 ~~Licensure;~~

7 (8) Make all necessary sanitary and health investigations
8 and inspections;

9 (9) In counties having a population of more than
10 three hundred thousand inhabitants, enact rules and regulations
11 for the protection of public health and the prevention of
12 communicable diseases within the district, except that such rules
13 and regulations shall have no application within the jurisdictional
14 limits of any city of the metropolitan class and shall not be in
15 effect until (a) thirty days after the completion of a three-week
16 publication in a legal newspaper, (b) approved by the county
17 attorney with his or her written approval attached thereto, and (c)
18 filed in the office of the county clerk of such county;

19 (10) Investigate the existence of any contagious or
20 infectious disease and adopt measures, with the approval of the
21 Department of Health and Human Services, ~~Regulation and Licensure,~~
22 to arrest the progress of the same;

23 (11) Distribute free as the local needs may require all
24 vaccines, drugs, serums, and other preparations obtained from the
25 Department of Health and Human Services or purchased for public
26 health purposes by the county board;

27 (12) Upon request, give professional advice and

1 information to all city, village, and school authorities on all
2 matters pertaining to sanitation and public health;

3 (13) Fix the salaries of all employees, including the
4 health director. Such city-county health department may also
5 establish an independent pension plan, retirement plan, or health
6 insurance plan or, by agreement with any participating city or
7 county, provide for the coverage of officers and employees of
8 such city-county health department under such city or county
9 pension plan, retirement plan, or health insurance plan. Officers
10 and employees of a county health department shall be eligible
11 to participate in the county pension plan, retirement plan, or
12 health insurance plan of such county. Officers and employees of a
13 district health department formed by two or more counties shall be
14 eligible to participate in the county retirement plan unless the
15 district health department establishes an independent pension plan
16 or retirement plan for its officers or employees;

17 (14) Establish fees for the costs of all services,
18 including those services for which third-party payment is
19 available; and

20 (15) In addition to powers conferred elsewhere in the
21 laws of the state and notwithstanding any other law of the state,
22 implement and enforce an air pollution control program under
23 subdivision (23) of section 81-1504 or subsection (1) of section
24 81-1528, which program shall be consistent with the federal Clean
25 Air Act, as amended, 42 U.S.C. 7401 et seq. Such powers shall
26 include without limitation those involving injunctive relief, civil
27 penalties, criminal fines, and burden of proof. Nothing in this

1 section shall preclude the control of air pollution by resolution,
2 ordinance, or regulation not in actual conflict with the state air
3 pollution control regulations.

4 Sec. 456. Section 71-1635, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-1635 When the county board of any county or counties
7 creates a health department as provided by sections 71-1626 to
8 71-1636, every other local, municipal, or county public health
9 agency or department, except city or county hospitals, may be
10 abolished, and such county or district health department may be
11 given full control over all health matters in the county or
12 counties, including all municipalities in the county in conformity
13 with the rules, regulations, and policies of the Department of
14 Health and Human Services, ~~the Department of Health and Human~~
15 ~~Services Regulation and Licensure, and the Department of Health~~
16 ~~and Human Services Finance and Support.~~ When a city has joined
17 in the establishment of a city-county health department, such
18 city-county health department may be given such control over all
19 health matters in the city as may be provided by agreement between
20 the county and the city with the approval of the Department of
21 Health and Human Services, ~~Regulation and Licensure.~~ If the health
22 department in a county or city is changed, any lawful ordinance,
23 resolution, regulation, policy, or procedure relating to any of the
24 functions conferred by sections 71-1626 to 71-1636 of the former
25 health department shall remain in full force and effect until it
26 is repealed or replaced or until it conflicts with a subsequently
27 enacted measure.

1 Sec. 457. Section 71-1637, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1637 (1) Any city by its mayor and council or by
4 its commission, any village by its village board, any county by
5 its board of supervisors or commissioners, or any township by its
6 electors shall have power to employ a visiting community nurse,
7 a home health nurse, or a home health agency defined in section
8 71-417 and the rules and regulations adopted and promulgated
9 under the Health Care Facility Licensure Act. Such nurses or
10 home health agency shall do and perform such duties as the city,
11 village, county, or township, by their officials and electors,
12 shall prescribe and direct. The city, village, county, or township
13 shall have the power to levy a tax, not exceeding three and
14 five-tenths cents on each one hundred dollars on the taxable
15 valuation of the taxable property of such city, village, county, or
16 township, for the purpose of paying the salary and expenses of such
17 nurses or home health agency. The levy shall be subject to sections
18 77-3442 and 77-3443. The city, village, county, or township shall
19 have the power to constitute and empower such nurses or home health
20 agency with police power to carry out the order of such city,
21 village, county, or township.

22 (2) The governing body of any city, village, county,
23 or township may contract with any visiting nurses association,
24 licensed hospital home health agency, or other licensed home health
25 agency, including those operated by the Department of Health and
26 Human Services, to perform the duties contemplated in subsection
27 (1) of this section, subject to the supervision of the governing

1 body, and may pay the expense of such contract out of the general
2 funds of the city, village, county, or township.

3 (3) Nothing in this section shall be construed to allow
4 any city, village, county, township, nurse, or home health agency
5 to (a) avoid the requirements of individual licensure, (b) perform
6 any service beyond the scope of practice of licensure or beyond
7 the limits of licensure prescribed by the Health Care Facility
8 Licensure Act, or (c) violate any rule or regulation adopted and
9 promulgated by the Department of Health and Human Services, ~~the~~
10 ~~Department of Health and Human Services Regulation and Licensure,~~
11 ~~or the Department of Health and Human Services Finance and Support.~~

12 Sec. 458. Section 71-1710, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-1710 Department means the Department of Health and
15 Human Services. ~~Regulation and Licensure.~~

16 Sec. 459. Section 71-1729, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-1729 For purposes of the Certified Registered Nurse
19 Anesthetist Act, unless the context otherwise requires:

20 (1) Board means the Board of Advanced Practice Registered
21 Nurses;

22 (2) Certified registered nurse anesthetist means a
23 licensed registered nurse holding a certificate issued under the
24 act;

25 (3) Department means the Department of Health and Human
26 Services; ~~Regulation and Licensure;~~

27 (4) Licensed practitioner means any physician or

1 osteopathic physician licensed to prescribe, diagnose, and treat as
2 prescribed in sections 71-1,102 and 71-1,137; and

3 (5) Practice of anesthesia means (a) the performance
4 of or the assistance in any act involving the determination,
5 preparation, administration, or monitoring of any drug used to
6 render an individual insensible to pain for procedures requiring
7 the presence of persons educated in the administration of
8 anesthetics or (b) the performance of any act commonly the
9 responsibility of educated anesthesia personnel. Practice of
10 anesthesia includes the use of those techniques which are deemed
11 necessary for adequacy in performance of anesthesia administration.
12 Nothing in the Certified Registered Nurse Anesthetist Act prohibits
13 routine administration of a drug by a duly licensed registered
14 nurse, licensed practical nurse, or other duly authorized person
15 for the alleviation of pain or prohibits the practice of anesthesia
16 by students enrolled in an accredited school of nurse anesthesia
17 when the services performed are a part of the course of study and
18 are under the supervision of a licensed practitioner or certified
19 registered nurse anesthetist.

20 Sec. 460. Section 71-1745, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-1745 Department shall mean the Department of Health
23 and Human Services. ~~Regulation and Licensure.~~

24 Sec. 461. Section 71-1774, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-1774 For purposes of the Licensed Practical
27 Nurse-Certified Act:

1 (1) Administration includes observing, initiating,
2 monitoring, discontinuing, maintaining, regulating, adjusting,
3 documenting, assessing, planning, intervening, and evaluating;

4 (2) Approved certification course means a course for
5 the education and training of a licensed practical nurse-certified
6 which the board has approved;

7 (3) Board means the Board of Nursing;

8 (4) Department means the Department of Health and Human
9 Services; ~~Regulation and Licensure;~~

10 (5) Direct supervision means that the responsible
11 licensed practitioner or registered nurse is physically present in
12 the clinical area and is available to assess, evaluate, and respond
13 immediately;

14 (6) Initial venipuncture means the initiation of
15 intravenous therapy based on a new order from a licensed
16 practitioner for an individual for whom a previous order for
17 intravenous therapy was not in effect;

18 (7) Intravenous therapy means the therapeutic infusion or
19 injection of substances through the venous system;

20 (8) Licensed practical nurse-certified means a licensed
21 practical nurse who meets the standards established pursuant to
22 section 71-1777 and who holds a valid certificate issued by the
23 department pursuant to the act;

24 (9) Licensed practitioner means any person authorized by
25 state law to prescribe intravenous therapy; and

26 (10) Pediatric patient means a patient who is both
27 younger than eighteen years old and under the weight of thirty-five

1 kilograms.

2 Sec. 462. Section 71-1798.01, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 71-1798.01 The Board of Nursing shall recommend annually
5 to the ~~Director of Regulation and Licensure~~ Department of Health
6 and Human Services the percentage of all nursing fees collected
7 during the year that are to be used to cover the cost of the
8 Nebraska Center for Nursing, except that the percentage shall not
9 be greater than fifteen percent of the biennial revenue derived
10 from the fees.

11 Sec. 463. Section 71-1799, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-1799 (1) The Nebraska Center for Nursing Board is
14 created. The board shall be a policy-setting board for the Nebraska
15 Center for Nursing. The board shall be appointed by the Governor as
16 follows:

17 (a) Ten members, at least three of whom shall be
18 registered nurses, one of whom shall be a licensed practical nurse,
19 one of whom shall be a representative of the hospital industry,
20 and one of whom shall be a representative of the long-term care
21 industry;

22 (b) One nurse educator recommended by the Board of
23 Regents of the University of Nebraska;

24 (c) One nurse educator recommended by the Nebraska
25 Community College Association;

26 (d) One nurse educator recommended by the Nebraska
27 Association of Independent Colleges and Universities; and

1 (e) Three members recommended by the State Board of
2 Health.

3 (2) The initial terms of the members of the Nebraska
4 Center for Nursing Board shall be:

5 (a) Five of the ten members appointed under subdivision
6 (1)(a) of this section shall serve for one year and five shall
7 serve for two years;

8 (b) The member recommended by the Board of Regents shall
9 serve for three years;

10 (c) The member recommended by the Nebraska Community
11 College Association shall serve for two years;

12 (d) The member recommended by the Nebraska Association of
13 Independent Colleges and Universities shall serve for one year; and

14 (e) The members recommended by the State Board of Health
15 shall serve for three years.

16 The initial appointments shall be made within sixty days
17 after July 13, 2000. After the initial terms expire, the terms of
18 all of the members shall be three years with no member serving more
19 than two consecutive terms.

20 (3) The Nebraska Center for Nursing Board shall have the
21 following powers and duties:

22 (a) To determine operational policy;

23 (b) To elect a chairperson and officers to serve two-year
24 terms. The chairperson and officers may not succeed themselves;

25 (c) To establish committees of the board as needed;

26 (d) To appoint a multidisciplinary advisory council for
27 input and advice on policy matters;

1 (e) To implement the major functions of the Nebraska
2 Center for Nursing; and

3 (f) To seek and accept nonstate funds for carrying out
4 center policy.

5 (4) The board members shall be reimbursed for their
6 actual and necessary expenses as provided in sections 81-1174 to
7 81-1177.

8 (5) The Department of Health and Human Services
9 ~~Regulation and Licensure~~ shall provide administrative support for
10 the board. The board may contract for additional support not
11 provided by the department.

12 Sec. 464. Section 71-17,102, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-17,102 For purposes of the Nursing Student Loan Act:

15 (1) Approved nursing program means a program offered by
16 a public or private institution in this state (a) which consists
17 of courses of instruction in regularly scheduled classes leading
18 to a master of science degree, a bachelor of science degree,
19 an associate degree, or a diploma in nursing or (b) for the
20 preparation for licensure as a licensed practical nurse available
21 to regularly enrolled undergraduate or graduate students;

22 (2) Department means the Department of Health and Human
23 Services; ~~Regulation and Licensure~~;

24 (3) Nontraditional student means a student who has not
25 attended classes as a regular full-time student for at least three
26 years; and

27 (4) Practice of nursing has the definition found in

1 section 71-1,132.05.

2 Sec. 465. Section 71-17,109, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 71-17,109 For purposes of the Nursing Faculty Student
5 Loan Act:

6 (1) Approved nursing program means a program offered by a
7 public or private postsecondary educational institution in Nebraska

8 (a) which consists of courses of instruction in regularly scheduled
9 classes leading to a master of science degree, a bachelor of
10 science degree, an associate degree, or a diploma in nursing or

11 (b) for the preparation for licensure as a licensed practical nurse
12 available to regularly enrolled undergraduate or graduate students;

13 (2) Department means the Department of Health and Human
14 Services; ~~and Regulation and Licensure; and~~

15 (3) Masters or doctoral accredited nursing program means
16 a postgraduate nursing education program that has been accredited
17 by a nationally recognized accrediting agency and offered by
18 a public or private postsecondary educational institution in
19 Nebraska.

20 Sec. 466. Section 71-17,113, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-17,113 Beginning January 1, 2006, through December 31,
23 2007, the ~~Department of Health and Human Services Regulation and~~
24 ~~Licensure~~ department shall charge a fee of one dollar, in addition
25 to any other fee, for each license renewal for a registered nurse
26 or licensed practical nurse pursuant to section 71-1,132.20. Such
27 fee shall be collected at the time of renewal and remitted to the

1 State Treasurer for credit to the Nursing Faculty Student Loan Cash
2 Fund.

3 Sec. 467. Section 71-17,118, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 71-17,118 For purposes of the Clinical Nurse Specialist
6 Practice Act:

7 (1) Approved certifying body means a national
8 certification organization which (a) is approved by the board,
9 (b) certifies qualified licensed registered nurses for advanced
10 practice, (c) has eligibility requirements related to education and
11 practice, and (d) offers an examination in an area of practice
12 which meets psychometric guidelines and tests approved by the
13 board;

14 (2) Board means the Board of Advanced Practice Registered
15 Nurses;

16 (3) Clinical nurse specialist means a registered nurse
17 who meets the requirements of section 71-17,119 and who holds a
18 certificate issued under the Clinical Nurse Specialist Practice
19 Act; and

20 (4) Department means the Department of Health and Human
21 Services. ~~Regulation and Licensure.~~

22 Sec. 468. Section 71-1802, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-1802 ~~The Director of Regulation and Licensure~~
25 Department of Health and Human Services is hereby authorized to
26 issue permits for the use of the ~~aforesaid materials~~ pathogenic
27 microorganisms described in section 71-1801 in the prevention

1 or control of diseases in humans, if in ~~his or her~~ the
2 opinion of the department there is sufficient warrant for their
3 utilization for ~~the aforesaid~~ such purpose. The ~~Director of~~
4 ~~Regulation and Licensure~~ department shall certify to the State
5 Veterinarian the materials or substances that ~~he or she~~ considers
6 contain live microorganisms which are pathogenic to humans. The
7 ~~director~~ department is further authorized to promulgate rules and
8 regulations to carry out the provisions of this section.

9 Sec. 469. Section 71-1803, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1803 The State Veterinarian is hereby authorized to
12 issue permits for the use of the ~~aforesaid materials~~ pathogenic
13 microorganisms described in section 71-1801 in the prevention or
14 control of diseases of animals, if in ~~his or her~~ the opinion of the
15 Department of Health and Human Services there is sufficient warrant
16 for their utilization for ~~the aforesaid~~ such purpose. In carrying
17 out the duties of this section with reference to animals, the
18 State Veterinarian shall take into consideration the certification
19 made by the ~~Director of Regulation and Licensure~~ Department of
20 Health and Human Services as provided for in section 71-1802. The
21 State Veterinarian is further authorized to promulgate rules and
22 regulations to carry out the provisions of this section.

23 Sec. 470. Section 71-1804, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-1804 The permits, issued under the provisions of
26 sections 71-1802 and 71-1803, shall be valid for the period
27 of one year, or part thereof, expiring on December 31 of each

1 year. However, all such permits must remain subject to abrogation
2 and renewal, if in the opinion of the ~~Director of Regulation~~
3 ~~and Licensure~~ Department of Health and Human Services or State
4 Veterinarian there is sufficient warrant for such abrogation or
5 renewal.

6 Sec. 471. Section 71-1903, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-1903 (1) Before issuance of a license under
9 sections 71-1901 to 71-1906.01, the department shall cause such
10 investigation to be made as it deems necessary to determine if
11 the character of the applicant, any member of the applicant's
12 household, or the person in charge of the service and the place
13 where the foster care is to be furnished are such as to ensure the
14 proper care and treatment of children. The department may request
15 the State Fire Marshal to inspect such places for fire safety
16 pursuant to section 81-502. The State Fire Marshal shall assess a
17 fee for such inspection pursuant to section 81-505.01, payable by
18 the licensee or applicant for a license, except that the department
19 may pay the fee for inspection for fire safety of foster family
20 homes as defined in section 71-1902. The department may ~~request the~~
21 ~~Department of Health and Human Services Regulation and Licensure to~~
22 conduct sanitation and health standards investigations pursuant to
23 subsection (2) of this section. The ~~Department of Health and Human~~
24 ~~Services~~ department may also, at any time it sees fit, cause an
25 inspection to be made of the place where any licensee is furnishing
26 foster care to see that such service is being properly conducted.

27 (2) ~~The Department of Health and Human Services~~

1 ~~Regulation and Licensure shall make an investigation and report~~
2 ~~to the Department of Health and Human Services, within thirty~~
3 ~~days after receipt of the request from the Department of Health~~
4 ~~and Human Services, The department shall make an investigation~~
5 ~~and report of all facilities and programs of licensed providers~~
6 ~~of foster care programs subject to this section or applicants~~
7 ~~for licenses to provide such programs to determine if the place~~
8 ~~or places to be covered by such licenses meet standards of~~
9 ~~health and sanitation set by the Department of Health and Human~~
10 ~~Services department for the care and protection of the child or~~
11 ~~children who may be placed in such facilities and programs. The~~
12 ~~Department of Health and Human Services Regulation and Licensure~~
13 ~~department may delegate the investigation authority to qualified~~
14 ~~local environmental health personnel.~~

15 (3) Before the foster care placement of any child in
16 Nebraska by the ~~Department of Health and Human Services~~ ~~on and~~
17 ~~after July 16, 2004,~~ ~~department,~~ the department shall require
18 a national criminal history record information check of the
19 prospective foster parent of such child and each member of such
20 prospective foster parent's household who is eighteen years of
21 age or older. The department shall provide two sets of legible
22 fingerprints for such persons to the Nebraska State Patrol for
23 submission to the Federal Bureau of Investigation. The Nebraska
24 State Patrol shall conduct a criminal history record information
25 check of such persons and shall submit such fingerprints to the
26 Federal Bureau of Investigation for a national criminal history
27 record information check. The criminal history record information

1 check shall include information from federal repositories of such
2 information and repositories of such information in other states
3 if authorized by federal law. The Nebraska State Patrol shall
4 issue a report of the results of such criminal history record
5 information check to the department. The department shall pay
6 a fee to the Nebraska State Patrol for conducting such check.
7 Information received from the criminal history record information
8 check required under this subsection shall be used solely for the
9 purpose of evaluating and confirming information provided by such
10 persons for providing foster care or for the finalization of an
11 adoption. A child may be placed in foster care by the department
12 prior to the completion of a criminal history record information
13 check under this subsection in emergency situations as determined
14 by the department.

15 Sec. 472. Section 71-1909, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 71-1909 (1) The purposes of the Child Care Licensing Act
18 are to provide:

19 (a) Statewide licensure standards for persons providing
20 child care programs; and

21 (b) ~~The Department of Health and Human Services~~
22 ~~Regulation and Licensure~~ department with authority to coordinate
23 the enforcement of standards on licensees.

24 (2) It is the intent of the Legislature that the
25 licensing and regulation of programs under the act exist for
26 the protection of children and to assist parents in making informed
27 decisions concerning enrollment and care of their children in such

1 programs.

2 Sec. 473. Section 71-1910, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 71-1910 For purposes of the Child Care Licensing Act,
5 unless the context otherwise requires:

6 (1) Department means the Department of Health and Human
7 Services; ~~Regulation and Licensure;~~

8 ~~(2) Director means the Director of Regulation and~~
9 ~~Licensure; and~~

10 ~~(3)(a)~~ (2)(a) Program means the provision of services
11 in lieu of parental supervision for children under thirteen years
12 of age for compensation, either directly or indirectly, on the
13 average of less than twelve hours per day, but more than two hours
14 per week, and includes any employer-sponsored child care, family
15 child care home, child care center, school-age child care program,
16 school-age services pursuant to section 79-1104, or preschool or
17 nursery school.

18 (b) Program does not include casual care at irregular
19 intervals, a recreation camp as defined in section 71-3101,
20 classes or services provided by a religious organization other
21 than child care or a preschool or nursery school, a preschool
22 program conducted in a school approved pursuant to section 79-318,
23 services provided only to school-age children during the summer and
24 other extended breaks in the school year, or foster care as defined
25 in section 71-1901.

26 Sec. 474. Section 71-1913.01, Revised Statutes Cumulative
27 Supplement, 2006, is amended to read:

1 71-1913.01 (1) Each program shall require the parent or
2 guardian of each child enrolled in such program to present within
3 thirty days after enrollment and periodically thereafter (a) proof
4 that the child is protected by age-appropriate immunization against
5 measles, mumps, rubella, poliomyelitis, diphtheria, pertussis,
6 tetanus, and haemophilus influenzae type B and such other diseases
7 as the ~~Department of Health and Human Services Regulation and~~
8 ~~Licensure~~ department may from time to time specify based on then
9 current medical and scientific knowledge, (b) certification by a
10 physician, an advanced practice registered nurse practicing under
11 and in accordance with his or her respective certification act,
12 or a physician assistant that immunization is not appropriate for
13 a stated medical reason, or (c) a written statement that the
14 parent or guardian does not wish to have such child so immunized
15 and the reasons therefor. The program shall exclude a child from
16 attendance until such proof, certification, or written statement is
17 provided. At the time the parent or guardian is notified that such
18 information is required, he or she shall be notified in writing of
19 his or her right to submit a certification or written statement
20 pursuant to subdivision (b) or (c) of this subsection.

21 (2) Each program shall keep the written record of
22 immunization, the certification, or the written statement of the
23 parent or guardian. Such record, certification, or statement shall
24 be kept by the program as part of the child's file, shall be
25 available onsite to the ~~Department of Health and Human Services~~
26 ~~and the Department of Health and Human Services Regulation and~~
27 ~~Licensure,~~ department, and shall be filed with the ~~Department of~~

1 ~~Health and Human Services~~ department for review and inspection.
2 Each program shall report to the ~~Department of Health and Human~~
3 ~~Services~~ department by November 1 of each year the status of
4 immunization for children enrolled as of September 30 of that year,
5 and children who have reached kindergarten age and who are enrolled
6 in public or private school need not be included in the report.

7 Sec. 475. Section 71-1913.02, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-1913.02 (1) The ~~Department of Health and Human~~
10 ~~Services Regulation and Licensure~~ department shall perform annually
11 a random audit of the reports submitted under section 71-1913.01
12 to check for compliance with such section on an annual basis and
13 such other audits and inspections as are necessary to prevent the
14 introduction or spread of disease. Audit results shall be reported
15 to the ~~Department of Health and Human Services-~~ department.

16 (2) If the ~~Department of Health and Human Services or the~~
17 ~~Department of Health and Human Services Regulation and Licensure~~
18 department discovers noncompliance with section 71-1913.01, the
19 ~~Department of Health and Human Services Regulation and Licensure~~
20 department shall allow a noncomplying program thirty days to
21 correct deficiencies.

22 (3) The ~~Department of Health and Human Services and~~
23 ~~the Department of Health and Human Services Regulation and~~
24 ~~Licensure~~ department shall develop and provide educational and
25 other materials to programs and the public as may be necessary to
26 implement section 71-1913.01.

27 Sec. 476. Section 71-1913.03, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 71-1913.03 ~~The Department of Health and Human Services~~
3 ~~Regulation and Licensure department~~ shall adopt and promulgate
4 rules and regulations relating to the required levels of
5 protection, using as a guide the recommendations of the American
6 Academy of Pediatrics and the Advisory Committee on Immunization
7 Practices of the Centers for Disease Control and Prevention of
8 the United States Department of Health and Human Services, Public
9 Health Service, and the methods, manner, and frequency of reporting
10 of each child's immunization status. ~~The Department of Health~~
11 ~~and Human Services Regulation and Licensure department~~ shall
12 furnish each program with copies of such rules and regulations
13 and any other material which will assist in carrying out section
14 71-1913.01.

15 Sec. 477. Section 71-1914, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 71-1914 (1) The department shall be the state's
18 coordinating agency for licensure and regulation of programs in
19 this state in order to (a) provide efficient services pursuant to
20 the Child Care Licensing Act, (b) avoid duplication of services,
21 and (c) prevent an unnecessary number of inspections of any
22 program. The department may request cooperation and assistance from
23 local and state agencies and such agencies shall promptly respond.
24 The extent of an agency's cooperation may be included in the report
25 to the Legislature pursuant to section 43-3402.

26 (2) A city, village, or county may adopt rules,
27 regulations, or ordinances establishing physical well-being and

1 safety standards for programs whether or not the persons providing
2 such programs are subject to licensure under section 71-1911.
3 Such rules, regulations, or ordinances shall be as stringent as
4 or more stringent than the department's rules and regulations for
5 licensees pursuant to the Child Care Licensing Act. The city,
6 village, or county adopting such rules, regulations, or ordinances
7 and the department shall coordinate the inspection and supervision
8 of licensees to avoid duplication of inspections. A city, village,
9 or county shall report any violation of such rules, regulations,
10 or ordinances to the ~~director~~ department. The city, village, or
11 county may administer and enforce such rules, regulations, and
12 ordinances. Enforcement of provisions of the Child Care Licensing
13 Act or rules or regulations adopted and promulgated under the act
14 shall be by the department pursuant to sections 71-1919 to 71-1923.

15 Sec. 478. Section 71-1915, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 71-1915 (1) Whenever the ~~director~~ department finds that
18 an emergency exists requiring immediate action to protect the
19 physical well-being and safety of a child in a program, the
20 ~~director~~ department may, without notice or hearing, issue an order
21 declaring the existence of such an emergency and requiring that
22 such action be taken as the ~~director~~ department deems necessary to
23 meet the emergency. The order may include an immediate prohibition
24 on the care of children by the licensee other than children of
25 the licensee. An order under this subsection shall be effective
26 immediately. Any person to whom the order is directed shall comply
27 immediately, and upon application to the ~~director~~, department, the

1 person shall be afforded a hearing as soon as possible and not
2 later than ten days after his or her application for the hearing.
3 On the basis of such hearing the ~~director~~ department shall continue
4 to enforce ~~his or her~~ such order or rescind or modify it.

5 (2) The ~~director~~ department may petition the appropriate
6 district court for an injunction whenever ~~he or she~~ believes
7 there is the belief that any person is violating the Child Care
8 Licensing Act, an order issued pursuant to the act, or any rule or
9 regulation adopted and promulgated pursuant to the act. It shall be
10 the duty of each county attorney or the Attorney General to whom
11 the ~~director~~ department reports a violation to cause appropriate
12 proceedings to be instituted without delay to ensure compliance
13 with the act, rules, regulations, and orders.

14 Sec. 479. Section 71-1919, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-1919 The department may deny the issuance of or take
17 disciplinary action against a license issued under the Child Care
18 Licensing Act on any of the following grounds:

19 (1) Failure to meet or violation of any of the
20 requirements of the Child Care Licensing Act or the rules and
21 regulations adopted and promulgated under the act;

22 (2) Violation of an order of the ~~director~~ department
23 under the act;

24 (3) Conviction of, or substantial evidence of committing
25 or permitting, aiding, or abetting another to commit, any unlawful
26 act, including, but not limited to, unlawful acts committed by an
27 applicant or licensee under the act, household members who reside

1 at the place where the program is provided, or employees of the
2 applicant or licensee that involve:

3 (a) Physical abuse of children or vulnerable adults as
4 defined in section 28-371;

5 (b) Endangerment or neglect of children or vulnerable
6 adults;

7 (c) Sexual abuse, sexual assault, or sexual misconduct;

8 (d) Homicide;

9 (e) Use, possession, manufacturing, or distribution of a
10 controlled substance listed in section 28-405;

11 (f) Property crimes, including, but not limited to,
12 fraud, embezzlement, and theft by deception; and

13 (g) Use of a weapon in the commission of an unlawful act;

14 (4) Conduct or practices detrimental to the health or
15 safety of a person served by or employed at the program;

16 (5) Failure to allow an agent or employee of the
17 ~~Department of Health and Human Services, the Department of Health~~
18 ~~and Human Services Finance and Support, or the Department of Health~~
19 ~~and Human Services Regulation and Licensure~~ department access to
20 the program for the purposes of inspection, investigation, or other
21 information collection activities necessary to carry out the duties
22 of ~~such departments,~~ the department;

23 (6) Failure to allow state or local inspectors,
24 investigators, or law enforcement officers access to the program
25 for the purposes of investigation necessary to carry out their
26 duties;

27 (7) Failure to meet requirements relating to sanitation,

1 fire safety, and building codes;

2 (8) Failure to comply with or violation of the Medication
3 Aide Act;

4 (9) Failure to file a report of suspected abuse or
5 neglect as required by sections 28-372 and 28-711;

6 (10) Violation of any city, village, or county rules,
7 regulations, or ordinances regulating licensees; or

8 (11) Failure to pay fees required under the Child Care
9 Licensing Act.

10 Sec. 480. Section 71-1922, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-1922 (1) If the department determines to deny the
13 issuance of or take disciplinary action against a license under
14 the Child Care Licensing Act, the department shall send to the
15 applicant or licensee, by certified mail to the address of the
16 applicant or licensee, a notice setting forth the determination,
17 the particular reasons for the determination, including a specific
18 description of the nature of the violation and the statute, rule,
19 regulation, or order violated, and the type of disciplinary action
20 which is pending. A copy of the notice shall also be mailed to the
21 person in charge of the program if the licensee is not actually
22 involved in the daily operation of the program. If the licensee
23 is a corporation, a copy of the notice shall be sent to the
24 corporation's registered agent.

25 (2) The denial or disciplinary action shall become final
26 fifteen days after the mailing of the notice unless the applicant
27 or licensee, within such fifteen-day period, makes a written

1 request for a hearing. The license shall continue in effect
2 until the final order of the ~~director~~ department if a hearing is
3 requested. If the ~~director~~ department does not receive such request
4 within such fifteen-day period, the action of the department shall
5 be final.

6 Sec. 481. Section 71-2002, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-2002 For purposes of the State Hospital Survey and
9 Construction Act: As used in sections 71-2001 to 71-2016, unless
10 the context otherwise requires:

11 (1) ~~Director shall mean the Director of Regulation and~~
12 ~~Licensure;~~ Department shall mean the Department of Health and Human
13 Services;

14 (2) The federal act shall mean, but is not restricted to,
15 Public Law 88-156, Public Law 88-164, Public Law 88-581, Public Law
16 88-443, and other measures of similar intent which have been, or
17 may in the future be, passed by the Congress of the United States;

18 (3) The Surgeon General shall mean the Surgeon General
19 of the Public Health Service of the United States or such other
20 federal office or agency responsible for the administration of the
21 federal Hospital Survey and Construction Act, 42 U.S.C. 291 and
22 amendments thereto;

23 (4) Hospital includes, but is not restricted to,
24 facilities or parts of facilities, which provide space for public
25 health centers, mental health clinics, and general, tuberculosis,
26 mental, long-term care, and other types of hospitals, and related
27 facilities, such as homes for the aged or infirm, laboratories,

1 out-patient departments, nurses' home and educational facilities,
2 and central service facilities operated in connection with
3 hospitals;

4 (5) Public health center shall mean a publicly owned
5 facility for providing public health services, including related
6 facilities such as laboratories, clinics, and administrative
7 offices operated in connection with public health centers; and

8 (6) Nonprofit hospital shall mean any hospital owned and
9 operated by a corporation or association, no part of the net
10 earnings of which inures, or may lawfully inure, to the benefit of
11 any private shareholder or individual.

12 Sec. 482. Section 71-2003, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-2003 The Department of Health and Human Services
15 Regulation and Licensure department shall constitute the sole
16 agency of the state for the purpose of (1) making an inventory
17 of existing hospitals, surveying the need for construction of
18 hospitals, and developing a program of hospital construction as
19 provided in section 71-2007, and (2) developing and administering
20 a state plan for the construction of public and other nonprofit
21 hospitals as provided in ~~sections 71-2008 to 71-2016.~~ the State
22 Hospital Survey and Construction Act.

23 Sec. 483. Section 71-2004, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-2004 In carrying out the purposes of ~~sections 71-2001~~
26 ~~to 71-2016,~~ the State Hospital Survey and Construction Act, the
27 ~~director~~ department is authorized and directed:

1 (1) To require such reports, make such inspections and
2 investigations, and prescribe such regulations as ~~he or she~~ it
3 deems necessary;

4 (2) To provide such methods of administration, appoint
5 an assistant director and other personnel of the division, and
6 take such other action as may be necessary to comply with the
7 requirements of the federal act and the regulations thereunder;

8 (3) To procure ~~in his or her discretion~~ the temporary or
9 intermittent services of experts or consultants or organizations
10 thereof, by contract, when such services are to be performed
11 on a part-time or fee-for-service basis and do not involve the
12 performance of administrative duties;

13 (4) To the extent ~~that he or she considers~~ desirable to
14 effectuate the purposes of ~~sections 71-2001 to 71-2016,~~ the State
15 Hospital Survey and Construction Act, to enter into agreements
16 for the utilization of the facilities and services of other
17 departments, agencies, and institutions, public or private;

18 (5) To accept on behalf of the state and to deposit
19 with the State Treasurer any grant, gift, or contribution made
20 to assist in meeting the cost of carrying out the purposes of
21 ~~sections 71-2001 to 71-2016,~~ the act and to expend the same for
22 such purpose; and

23 (6) To match funds with federal grants when required
24 in order to obtain such funds in carrying out the ~~provisions of~~
25 ~~sections 71-2001 to 71-2016.~~ act.

26 Sec. 484. Section 71-2006, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 71-2006 Such money as may be appropriated by the
2 Legislature for the administration of ~~sections 71-2001 to 71-2016~~
3 the State Hospital Survey and Construction Act shall be expended
4 upon proper certification by the ~~director~~ department as provided by
5 law.

6 Sec. 485. Section 71-2007, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-2007 The ~~director~~ department is authorized and
9 directed to make an inventory of existing hospitals and medical
10 facilities, including, but not restricted to, public, nonprofit,
11 and proprietary hospitals and other medical facilities, to
12 accumulate pertinent comparable statistical data from existing
13 hospitals and medical facilities, to survey the need for
14 construction or expansion of hospitals and, on the basis of
15 such statistical data, inventory and survey, and to develop a
16 program for the construction or expansion of such public and other
17 nonprofit hospitals and medical facilities as will, in conjunction
18 with existing facilities, afford the necessary physical facilities
19 for furnishing adequate hospital, clinic, and other essential
20 health services without duplication or fragmentation of such
21 facilities or services to all the people of the state.

22 Sec. 486. Section 71-2009, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-2009 The ~~director~~ department is authorized to make
25 application to the Surgeon General for federal funds to assist in
26 carrying out the activities ~~herein~~ provided in the State Hospital
27 Survey and Construction Act. Such funds shall be deposited in the

1 state treasury and shall be available when appropriated, ~~to the~~
2 ~~director~~ for expenditure for carrying out the purposes of ~~sections~~
3 ~~71-2008 to 71-2016.~~ the act. Any such funds received and not
4 expended for such purposes shall be repaid to the Treasury of the
5 United States.

6 Sec. 487. Section 71-2010, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-2010 The ~~director~~ department shall prepare and submit
9 to the Surgeon General a state plan which shall include the
10 hospital construction program developed under ~~sections 71-2008~~
11 ~~to 71-2016,~~ the State Hospital Survey and Construction Act, and
12 which shall provide for the establishment, administration, and
13 operation of hospital and medical facility construction activities
14 in accordance with the requirements of the federal act and
15 regulations thereunder. The ~~director~~ department shall, prior to
16 the submission of such plan to the Surgeon General, give adequate
17 publicity to a general description of all the provisions proposed
18 to be included therein, and hold a public hearing at which all
19 persons or organizations with a legitimate interest in such plan
20 may be given an opportunity to express their views. After approval
21 of the plan by the Surgeon General, the ~~director~~ department shall
22 make the plan, or plans, or a copy thereof, available upon request
23 to all interested persons or organizations. The ~~director~~ department
24 shall from time to time review the hospital construction program
25 and submit to the Surgeon General any modifications ~~thereof which~~
26 ~~he may find~~ necessary, and may submit to the Surgeon General such
27 modifications of the state plan, or plans, not inconsistent with

1 the requirements of the federal act, ~~as he may deem advisable.~~

2 Sec. 488. Section 71-2011, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-2011 The ~~director~~ department shall by regulation
5 prescribe minimum standards for the maintenance and operation
6 of hospitals and other medical facilities which receive federal aid
7 for construction under the state plan.

8 Sec. 489. Section 71-2013, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-2013 Applications for hospital construction projects
11 for which federal funds are requested shall be submitted to
12 the ~~director~~ department and may be submitted by the state or
13 any political subdivision thereof or by any public or nonprofit
14 agency authorized to construct and operate a hospital. Each such
15 application shall conform to federal and state requirements.

16 Sec. 490. Section 71-2014, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-2014 The ~~director~~ department shall afford to every
19 applicant for a construction project an opportunity for a fair
20 hearing. If the ~~director~~, department, after affording reasonable
21 opportunity for development and presentation of applications in the
22 order of relative need, finds that a project application complies
23 with the requirements of section 71-2013 and is otherwise in
24 conformity with the state plan, ~~he shall approve~~ such application
25 shall be approved and shall recommend and forward it be recommended
26 and forwarded to the Surgeon General.

27 Sec. 491. Section 71-2015, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-2015 From time to time the ~~director~~ department shall
3 inspect each construction project approved by the Surgeon General
4 and, if the inspection so warrants, the ~~director~~ department shall
5 certify to the Surgeon General that work has been performed upon
6 the project, or purchases have been made, in accordance with
7 the approved plans and specifications, and that payment of an
8 installment of federal funds is due to the applicant.

9 Sec. 492. Section 71-2081, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 71-2081 For each hospital uniform billing form on which
12 a diagnosis code for the external cause of an injury, poisoning,
13 or adverse effect is entered pursuant to section 71-2080, each
14 hospital in this state ~~may~~ shall submit data to the Department
15 of Health and Human Services. ~~Regulation and Licensure beginning~~
16 ~~January 1, 1994,~~ and shall submit data to the department beginning
17 ~~January 1, 1995.~~ Such data shall be submitted quarterly and
18 shall include, but not be limited to, the diagnosis code for the
19 external cause of an injury, poisoning, or adverse effect, other
20 diagnosis codes, the procedure codes, admission date, discharge
21 date, disposition code, and demographic data to include, but not be
22 limited to, the birthdate, sex, city and county of residence, and
23 zip code of residence for every patient discharged from a hospital,
24 receiving outpatient services, or released from observation for
25 whom a diagnosis code for the external cause of an injury,
26 poisoning, or adverse effect is recorded pursuant to section
27 71-2080. This data shall be submitted to the department in written

1 or computer form. The data provided to the department under
2 this section shall be classified for release as determined by
3 the department only in aggregate data reports created by the
4 department. Such aggregate data reports shall be considered public
5 documents.

6 Sec. 493. Section 71-2082, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-2082 The Department of Health and Human Services
9 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
10 regulations governing the recordation, acquisition, compilation,
11 and dissemination of all data collected pursuant to sections
12 71-2078 to 71-2082.

13 Sec. 494. Section 71-2084, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-2084 For purposes of sections 71-2084 to 71-2096:

16 (1) Department means the Department of Health and Human
17 Services; and ~~Regulation and Licensure;~~

18 ~~(2) Director means the Director of Regulation and~~
19 ~~Licensure; and~~

20 ~~(3)~~ (2) Health care facility means a health care facility
21 subject to licensing under the Health Care Facility Licensure Act.

22 Sec. 495. Section 71-2086, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-2086 (1) The department shall file the petition for
25 the appointment of a receiver provided for in section 71-2085 in
26 the district court of the county where the health care facility
27 is located and shall request that a receiver be appointed for the

1 health care facility.

2 (2) The court shall expeditiously hold a hearing on
3 the petition within seven days after the filing of the petition.
4 The ~~director~~ department shall present evidence at the hearing in
5 support of the petition. The licensee, owner, or operator may
6 also present evidence, and both parties may subpoena witnesses.
7 The court may appoint a temporary receiver for the health care
8 facility ex parte if the ~~director~~, department, by affidavit, states
9 that an emergency exists which presents an imminent danger of
10 death or physical harm to the residents or patients of the health
11 care facility. If a temporary receiver is appointed, notice of
12 the petition and order shall be served on the licensee, owner,
13 operator, or administrator of the health care facility within
14 seventy-two hours after the entry of the order. The petition and
15 order may be served by any method specified in section 25-505.01 or
16 the court may permit substitute or constructive service as provided
17 in section 25-517.02 when service cannot be made with reasonable
18 diligence by any of the methods specified in section 25-505.01. A
19 hearing on the petition and temporary order shall be held within
20 seventy-two hours after notice has been served unless the licensee,
21 owner, or operator consents to a later date. After the hearing
22 the court may terminate, continue, or modify the temporary order.
23 If the court determines that the department did not have probable
24 cause to submit the affidavit in support of the appointment of
25 the temporary receiver, the court shall have the jurisdiction to
26 determine and award compensatory damages against the state to the
27 owner or operator. If the licensee, owner, or operator informs the

1 court at or before the time set for hearing that he or she does not
2 object to the petition, the court shall waive the hearing and at
3 once appoint a receiver for the health care facility.

4 (3) The purpose of a receivership created under this
5 section is to safeguard the health, safety, and continuity of
6 care of residents and patients and to protect them from adverse
7 health effects. A receiver shall not take any actions or assume any
8 responsibilities inconsistent with this purpose. No person shall
9 impede the operation of a receivership created under this section.
10 After the appointment of a receiver, there shall be an automatic
11 stay of any action that would interfere with the functioning of the
12 health care facility, including, but not limited to, cancellation
13 of insurance policies executed by the licensee, owner, or operator,
14 termination of utility services, attachments or setoffs of resident
15 trust funds or working capital accounts, and repossession of
16 equipment used in the health care facility. The stay shall not
17 apply to any licensure, certification, or injunctive action taken
18 by the department.

19 Sec. 496. Section 71-2096, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-2096 (1) Any person who prevents or interferes with or
22 attempts to impede in any way any duly authorized representative
23 of the department in the lawful enforcement of sections 71-2084 to
24 71-2096 shall be guilty of a Class IV misdemeanor. For purposes of
25 this subsection, lawful enforcement includes, but is not limited
26 to, (a) contacting or interviewing any resident or patient of a
27 health care facility in private at any reasonable hour and without

1 advance notice, (b) examining any relevant books or records of a
2 health care facility, or (c) preserving evidence of any violations
3 of sections 71-2084 to 71-2096.

4 (2) The county attorney of the county in which the health
5 care facility is located or the Attorney General may be requested
6 by the ~~director~~ department to initiate prosecution.

7 Sec. 497. Section 71-2097, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-2097 For purposes of sections 71-2097 to 71-20,101:

10 (1) Civil penalties include any remedies required under
11 federal law and include the imposition of monetary penalties;

12 (2) Department means the Department of Health and Human
13 Services;

14 ~~(2)~~ (3) Federal regulations for participation in the
15 medicaid program means the regulations found in 42 C.F.R. parts
16 442 and 483, as amended, for participation in the medicaid program
17 under Title XIX of the federal Social Security Act, as amended; and

18 ~~(3)~~ (4) Nursing facility means any intermediate care
19 facility or nursing facility, as defined in sections 71-420 and
20 71-424, which receives federal and state funds under Title XIX of
21 the federal Social Security Act, as amended.

22 Sec. 498. Section 71-2098, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-2098 (1) ~~The Department of Health and Human Services~~
25 ~~Finance and Support~~ department may assess, enforce, and collect
26 civil penalties against a nursing facility which the ~~Department~~
27 ~~of Health and Human Services Regulation and Licensure~~ department

1 has found in violation of federal regulations for participation
2 in the medicaid program pursuant to the authority granted to the
3 ~~Department of Health and Human Services Regulation and Licensure~~
4 department under section 81-604.03.

5 (2) If the ~~Department of Health and Human Services~~
6 ~~Regulation and Licensure~~ department finds that a violation is life
7 threatening to one or more residents or creates a direct threat
8 of serious adverse harm to one or more residents, a civil penalty
9 shall be imposed for each day the deficiencies which constitute
10 the violation exist. The ~~Department of Health and Human Services~~
11 ~~Finance and Support~~ department may assess an appropriate civil
12 penalty for other violations based on the nature of the violation.
13 Any monetary penalty assessed shall not be less than fifty dollars
14 nor more than ten thousand dollars for each day the facility is
15 found to be in violation of such federal regulations. Monetary
16 penalties assessed shall include interest at the rate specified in
17 section 45-104.02, as such rate may from time to time be adjusted.

18 Sec. 499. Section 71-2099, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-2099 The ~~Department of Health and Human Services~~
21 ~~Finance and Support~~ department shall adopt criteria for determining
22 the type and amount of the civil penalty assessed under section
23 71-2098. Such criteria shall include, but need not be limited to,
24 consideration of the following factors:

- 25 (1) The period of time over which the violation occurred;
26 (2) The frequency of the violation;
27 (3) The nursing facility's history concerning the type of

1 violation for which the civil penalty is assessed;

2 (4) The nursing facility's intent or reason for the
3 violation;

4 (5) The effect, if any, of the violation on the health,
5 safety, security, or welfare of the residents;

6 (6) The existence of other violations, in combination
7 with the violation for which the civil penalty is assessed, which
8 increase the threat to the health, safety, security, rights, or
9 welfare of the residents;

10 (7) The accuracy, thoroughness, and availability of
11 records regarding the violation, which the nursing facility is
12 required to maintain; and

13 (8) The number of additional related violations occurring
14 within the same time span as the violation in question.

15 Sec. 500. Section 71-20,100, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-20,100 (1) The Nursing Facility Penalty Cash Fund is
18 created. Monetary penalties collected by the ~~Department of Health~~
19 ~~and Human Services Finance and Support~~ department pursuant to
20 section 71-2098 shall be remitted to the State Treasurer for credit
21 to such fund. The state investment officer shall invest any money
22 in the fund available for investment pursuant to the Nebraska
23 Capital Expansion Act and the Nebraska State Funds Investment Act.

24 (2) The ~~Department of Health and Human Services~~
25 ~~Finance and Support~~ department shall adopt and promulgate rules
26 and regulations which establish circumstances under which the
27 department may distribute funds from the Nursing Facility Penalty

1 Cash Fund to protect the health or property of individuals residing
2 in nursing facilities which the ~~Department of Health and Human~~
3 ~~Services Regulation and Licensure~~ department has found in violation
4 of federal regulations for participation in the medicaid program.
5 Circumstances considered as a basis for distribution from the fund
6 include paying costs to:

- 7 (a) Relocate residents to other facilities;
8 (b) Maintain the operation of a nursing facility pending
9 correction of violations;
10 (c) Close a nursing facility; and
11 (d) Reimburse residents for personal funds lost.

12 Sec. 501. Section 71-20,101, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-20,101 The ~~Department of Health and Human Services~~
15 ~~Finance and Support~~ department shall adopt and promulgate rules and
16 regulations to carry out sections 71-2097 to 71-20,101, including
17 rules and regulations for notice and appeal procedures.

18 Sec. 502. Section 71-20,103, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-20,103 For purposes of the Nonprofit Hospital Sale
21 Act:

22 (1) Department means the Department of Health and Human
23 Services; ~~Regulation and Licensure~~;

24 (2) Hospital has the meaning found in section 71-419;

25 (3) Acquisition means any acquisition by a person or
26 persons of an ownership or controlling interest in a hospital,
27 whether by purchase, merger, lease, gift, or otherwise, which

1 results in a change of ownership or control of twenty percent or
2 greater or which results in the acquiring person or persons holding
3 a fifty percent or greater interest in the ownership or control
4 of a hospital, but acquisition does not include the acquisition
5 of an ownership or controlling interest in a hospital owned by
6 a nonprofit corporation if the transferee (a) is a nonprofit
7 corporation having a substantially similar charitable health care
8 purpose as the transferor or is a governmental entity, (b) is
9 exempt from federal income tax under section 501(c)(3) of the
10 Internal Revenue Code or as a governmental entity, and (c) will
11 maintain representation from the affected community on the local
12 board; and

13 (4) Person has the meaning found in section 71-5803.12.

14 Sec. 503. Section 71-20,113, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-20,113 Any acquisition of a hospital before April 16,
17 1996, and any acquisition in which an application for a certificate
18 of need under the Nebraska Health Care Certificate of Need Act
19 has been granted by the ~~department~~ Department of Health and Human
20 Services Regulation and Licensure before April 16, 1996, is not
21 subject to the Nonprofit Hospital Sale Act.

22 Sec. 504. Section 71-2201, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-2201 There is created a Maternal and Child Health and
25 Public Health Work Fund in the treasury of the State of Nebraska,
26 to be administered by the ~~Director~~ Department of Health and Human
27 Services for maternal and child health and for public health work,

1 as provided by law. Any money in the fund available for investment
2 shall be invested by the state investment officer pursuant to
3 the Nebraska Capital Expansion Act and the Nebraska State Funds
4 Investment Act.

5 Sec. 505. Section 71-2202, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-2202 The ~~Director~~ Department of Health and Human
8 Services shall administer the fund for maternal and child health
9 and public health services throughout the State of Nebraska.
10 Seventy-five percent of the fund shall be used for maternal and
11 child health activities in this state, and twenty-five percent
12 shall be used for public health work, if such amounts are needed
13 therefor.

14 Sec. 506. Section 71-2203, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-2203 Disbursements from the fund referred to in
17 section 71-2201 shall be made upon vouchers signed by ~~the Director~~
18 an authorized representative of the Department of Health and Human
19 Services and warrants approved by the Director of Administrative
20 Services.

21 Sec. 507. Section 71-2207, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-2207 The funds allocated for maternal and child
24 health in this state shall be used and distributed subject to
25 the supervision of the ~~Director~~ Department of Health and Human
26 Services: (1) For promoting the health of mothers and children,
27 especially in rural areas, suffering from some economic distress;

1 (2) for the establishment, extension, and improvement of local
2 maternal and child health services to be administered by local
3 child health units; and (3) for demonstration services in needy
4 areas and among groups in special need. The ~~director~~ department
5 shall also cooperate with licensed physicians and surgeons and
6 with nursing and welfare groups and organizations for the purposes
7 herein expressed.

8 Sec. 508. Section 71-2208, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-2208 The ~~Director~~ Department of Health and Human
11 Services shall make quarterly or more frequent reports of the
12 administration of sections 71-2205 to 71-2208, and all expenditures
13 thereunder, to the Chief of the Children's Bureau of the United
14 States Department of Labor, and shall comply with requests for
15 information from the Secretary of Labor of the United States or his
16 or her agencies, if federal funds are granted to this state for the
17 purposes mentioned in such sections.

18 Sec. 509. Section 71-2304, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 71-2304 (1) The Legislature shall appropriate funds
21 to create a coordinated program of education and treatment for
22 individuals that participate in prostitution-related activities as
23 described in section 28-801.

24 (2) The Department of Health and Human Services, ~~Finance~~
25 ~~and Support~~, in consultation with the regional behavioral health
26 authorities, shall distribute funds to regional behavioral health
27 authorities that can demonstrate to the department a high incidence

1 of prostitution within the behavioral health region. The department
2 may consider the following criteria for regional behavioral health
3 funding under this section:

4 (a) The number of criminal convictions for
5 prostitution-related activities within the counties that comprise
6 the regional behavioral health authority;

7 (b) Evidence that prostitution-related activities are
8 impacting residential areas and businesses and the quality of life
9 of residents in such areas and businesses is negatively impacted;

10 (c) The amount of local law enforcement resources devoted
11 specifically to curtailing prostitution-related activity;

12 (d) Evidence that the regional behavioral health
13 authorities consulted with recognized neighborhood and business
14 associations within geographic proximity to concentrated areas of
15 prostitution; and

16 (e) The amount of local subdivision treatment funding.

17 Each regional behavioral health authority may contract
18 with qualifying public, private, or nonprofit entities for the
19 provision of such education and treatment. Such qualifying entities
20 may obtain additional funding from cities and counties to provide a
21 coordinated program of treatment and education for individuals that
22 participate in prostitution-related activities.

23 Sec. 510. Section 71-2305, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 71-2305 The Department of Health and Human Services
26 ~~Finance and Support~~ shall adopt and promulgate rules and
27 regulations to carry out the Nebraska Prostitution Intervention and

1 Treatment Act.

2 Sec. 511. Section 71-2407, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-2407 (1) Any person operating a mail service pharmacy
5 outside of the State of Nebraska shall obtain a mail service
6 pharmacy license prior to shipping, mailing, or in any manner
7 delivering dispensed prescription drugs as defined in section
8 71-1,142 into the State of Nebraska.

9 (2) To be qualified to hold a mail service pharmacy
10 license, a person shall:

11 (a) Hold a pharmacy license or permit issued by and valid
12 in the state in which the person is located and from which such
13 prescription drugs will be shipped, mailed, or otherwise delivered;

14 (b) Be located and operating in a state in which the
15 requirements and qualifications for obtaining and maintaining a
16 pharmacy license or permit are considered by the Department of
17 Health and Human Services, ~~Regulation and Licensure~~, with the
18 approval of the Board of Pharmacy, to be substantially equivalent
19 to the requirements of the Health Care Facility Licensure Act;

20 (c) Designate the Secretary of State as his, her, or its
21 agent for service of process in this state; and

22 (d) Employ on a full-time basis at least one pharmacist
23 who holds a current unrestricted pharmacist license issued
24 under the Uniform Licensing Law who shall be responsible for
25 compliance by the mail service pharmacy with the Mail Service
26 Pharmacy Licensure Act. The mail service pharmacy shall notify
27 the department when such pharmacist is no longer employed by such

1 pharmacy.

2 (3) To obtain a mail service pharmacy license, a person
3 shall:

4 (a) File an application on a form developed by the
5 department; and

6 (b) Pay a fee equivalent to the fee for a pharmacy
7 license in the State of Nebraska pursuant to section 71-434.

8 (4) This section does not apply to prescription drugs
9 mailed, shipped, or otherwise delivered by a pharmaceutical company
10 to a laboratory for the purpose of conducting clinical research.

11 Sec. 512. Section 71-2408, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-2408 (1) The Department of Health and Human Services,
14 ~~Regulation and Licensure~~, after notice and an opportunity for
15 a hearing, may deny, refuse renewal of, revoke, or otherwise
16 discipline or restrict the license of a mail service pharmacy for
17 (a) any discipline of the pharmacy license held by such pharmacy
18 in another state pursuant to subdivision (2)(a) of section 71-2407,
19 (b) any violation of the Mail Service Pharmacy Licensure Act or
20 rules and regulations adopted and promulgated under the act, or (c)
21 conduct by such pharmacy which in this state presents a threat to
22 the public health and safety or a danger of death or physical harm.

23 (2) The department, upon the recommendation of the Board
24 of Pharmacy, shall notify the Attorney General of any possible
25 violations of the Mail Service Pharmacy Licensure Act. If the
26 Attorney General has reason to believe that an out-of-state person
27 is operating in violation of the act, he or she shall commence

1 an action in the district court of Lancaster County to enjoin any
2 such person from further mailing, shipping, or otherwise delivering
3 prescription drugs into the State of Nebraska.

4 Sec. 513. Section 71-2409, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-2409 The Department of Health and Human Services
7 ~~Regulation and Licensure~~ shall, upon the recommendation of the
8 Board of Pharmacy, adopt and promulgate rules and regulations
9 necessary to carry out the Mail Service Pharmacy Licensure Act.

10 Sec. 514. Section 71-2411, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-2411 For purposes of the Emergency Box Drug Act:

13 (1) Authorized personnel shall mean any medical doctor,
14 doctor of osteopathy, registered nurse, licensed practical nurse,
15 pharmacist, or physician's assistant;

16 (2) Department shall mean the Department of Health and
17 Human Services; ~~Regulation and Licensure;~~

18 (3) Drug shall mean any prescription drug or device
19 or legend drug or device defined under section 71-1,142, any
20 nonprescription drug as defined under section 71-1,142, any
21 controlled substance as defined under section 28-405, or any device
22 as defined under section 71-1,142;

23 (4) Emergency box drugs shall mean drugs required to meet
24 the immediate therapeutic needs of patients when the drugs are not
25 available from any other authorized source in time to sufficiently
26 prevent risk of harm to such patients by the delay resulting from
27 obtaining such drugs from such other authorized source;

1 (5) Institution shall mean an intermediate care facility,
2 an intermediate care facility for the mentally retarded, a mental
3 health center, a nursing facility, and a skilled nursing facility,
4 as such terms are defined in sections 71-420, 71-421, 71-423,
5 71-424, and 71-429;

6 (6) Institutional pharmacy shall mean the physical
7 portion of an institution engaged in the compounding, dispensing,
8 and labeling of drugs which is operating pursuant to a pharmacy
9 license issued by the department under the Health Care Facility
10 Licensure Act;

11 (7) Multiple dose vial shall mean any bottle in which
12 more than one dose of a liquid drug is stored or contained; and

13 (8) Supplying pharmacist shall mean the pharmacist in
14 charge of an institutional pharmacy or a pharmacist who provides
15 emergency box drugs to an institution pursuant to the Emergency
16 Box Drug Act. Supplying pharmacist shall not include any agent or
17 employee of the supplying pharmacist who is not a pharmacist.

18 Sec. 515. Section 71-2423, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 71-2423 For purposes of the Cancer Drug Repository
21 Program Act:

22 (1) Cancer drug means a prescription drug used to treat
23 (a) cancer or its side effects or (b) the side effects of a
24 prescription drug used to treat cancer or its side effects;

25 (2) Department means the Department of Health and Human
26 Services; ~~Regulation and Licensure;~~

27 (3) Health care facility has the definition found in

1 section 71-413;

2 (4) Health clinic has the definition found in section
3 71-416;

4 (5) Hospital has the definition found in section 71-419;

5 (6) Participant means a physician's office, pharmacy,
6 hospital, or health clinic that has elected to voluntarily
7 participate in the program and that accepts donated cancer drugs
8 under the rules and regulations adopted and promulgated by the
9 department for the program;

10 (7) Pharmacy has the definition found in section 71-425;

11 (8) Physician's office means the office of a person
12 licensed to practice medicine and surgery or osteopathic medicine
13 and surgery;

14 (9) Prescribing practitioner means a health care
15 practitioner licensed under the Uniform Licensing Law who is
16 authorized to prescribe cancer drugs;

17 (10) Prescription drug has the definition found in
18 section 71-1,142; and

19 (11) Program means the cancer drug repository program
20 established pursuant to section 71-2424.

21 Sec. 516. Section 71-2431, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 71-2431 (1) Prescription drugs or devices which have been
24 delivered to a community health center for dispensing to a patient
25 of such health center pursuant to a valid prescription, but which
26 are not dispensed or administered to such patient, may be delivered
27 to a pharmacist or pharmacy under contract with the community

1 health center for relabeling and redispensing to another patient of
2 such health center pursuant to a valid prescription, ~~except that:~~
3 if:

4 (a) The decision to accept delivery of the drug or device
5 for relabeling and redispensing ~~shall rest~~ rests solely with the
6 contracting pharmacist or pharmacy;

7 (b) The drug or device ~~shall have~~ has been in the control
8 of the community health center at all times;

9 (c) The drug or device ~~shall be~~ is in the original and
10 unopened labeled container with a tamper-evident seal intact. Such
11 container shall bear the expiration date or calculated expiration
12 date and lot number; and

13 (d) The relabeling and redispensing is not otherwise
14 prohibited by law.

15 (2) For purposes of this section:

16 (a) Administer has the definition found in section
17 71-1,142;

18 (b) Calculated expiration date has the definition found
19 in section 71-1,147.53;

20 (c) Community health center means a community health
21 center established pursuant to the Health Centers Consolidation Act
22 of 1996, 42 U.S.C. 201 et seq., as such act existed on May 7, 2005;

23 (d) Deliver or delivery has the definition found in
24 section 71-1,142;

25 (e) Dispense or dispensing has the definition found in
26 section 71-1,142;

27 (f) Prescription has the definition found in section

1 71-1,142; and

2 (g) Prescription drug or device has the definition found
3 in section 71-1,142.

4 (3) The Department of Health and Human Services,
5 ~~Regulation and Licensure~~, in consultation with the Board of
6 Pharmacy, may adopt and promulgate rules and regulations to carry
7 out this section.

8 Sec. 517. Section 71-2432, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-2432 For purposes of sections 71-2432 to 71-2435:

11 (1) Clandestine drug lab means any area where glassware,
12 heating devices, or other equipment or precursors, solvents, or
13 related articles or reagents are used to unlawfully manufacture
14 methamphetamine;

15 (2) Contaminated property means an enclosed area of
16 any property or portion thereof intended for human habitation or
17 use which has been contaminated by chemicals, chemical residue,
18 methamphetamine, methamphetamine residue, or other substances from
19 a clandestine drug lab;

20 (3) Department means the Department of Health and Human
21 Services; ~~Regulation and Licensure~~;

22 (4) Law enforcement agency has the meaning found in
23 section 81-1401;

24 (5) Local public health department has the meaning found
25 in section 71-1626;

26 (6) Methamphetamine means methamphetamine, its salts,
27 optical isomers, and salts of its isomers; and

1 (7) Rehabilitate or rehabilitation means all actions
2 necessary to ensure that contaminated property is safe for human
3 habitation or use.

4 Sec. 518. Section 71-2437, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 71-2437 For purposes of the Immunosuppressant Drug
7 Repository Program Act:

8 (1) Department means the Department of Health and Human
9 Services; ~~Regulation and Licensure;~~

10 (2) Immunosuppressant drug means anti-rejection drugs
11 that are used to reduce the body's immune system response to
12 foreign material and inhibit a transplant recipient's immune system
13 from rejecting a transplanted organ. Immunosuppressant drugs are
14 available only as prescription drugs and come in tablet, capsule,
15 and liquid forms. The recommended dosage depends on the type
16 and form of immunosuppressant drug and the purpose for which
17 it is being used. Immunosuppressant drug does not include drugs
18 prescribed for inpatient use;

19 (3) Participant means a transplant center that has
20 elected to voluntarily participate in the program, that has
21 submitted written notification to the department of its intent
22 to participate in the program, and that accepts donated
23 immunosuppressant drugs under the rules and regulations adopted and
24 promulgated by the department for the program;

25 (4) Prescribing practitioner means a health care
26 practitioner licensed under the Uniform Licensing Law who is
27 authorized to prescribe immunosuppressant drugs;

1 (5) Prescription drug has the definition found in section
2 71-1,142;

3 (6) Program means the immunosuppressant drug repository
4 program established pursuant to section 71-2438;

5 (7) Transplant center means a hospital that operates
6 an organ transplant program, including qualifying patients for
7 transplant, registering patients on the national waiting list,
8 performing transplant surgery, and providing care before and after
9 transplant; and

10 (8) Transplant program means the organ-specific facility
11 within a transplant center. A transplant center may have transplant
12 programs for the transplantation of hearts, lungs, livers, kidneys,
13 pancreata, or intestines.

14 Sec. 519. Section 71-2503, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-2503 Every person who disposes of or sells at retail
17 or furnishes any of the poisons in section 71-2501 or any
18 other poisons which the Department of Health and Human Services
19 ~~Regulation and Licensure~~ may from time to time designate, as
20 provided in section 71-2506, shall, before delivery, enter in a
21 book kept for that purpose, to be known as the Poison Register,
22 the date of sale, the name and address of the purchaser, the name
23 and quantity of the poison, the purpose for which it is purchased,
24 and the name of the dispenser, and such record shall be signed
25 by the person to whom the poison is delivered. Such record shall
26 be kept in the form prescribed by the department, and the book
27 containing the same must be always open for inspection by the

1 proper authorities, and must be preserved for at least two years
2 after the last entry.

3 Sec. 520. Section 71-2506, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-2506 Whenever, in the judgment of the ~~Director of~~
6 ~~Regulation and Licensure,~~ Department of Health and Human Services,
7 it shall become necessary for the protection of the public, to
8 add any poison, not specifically enumerated in section 71-2501, the
9 ~~Department of Health and Human Services Regulation and Licensure~~
10 department shall have printed a revised schedule of all poisons
11 coming under section 71-2501. The department shall forward by mail
12 one copy to each person registered upon its books and to every
13 person applying for same, and the revised schedule shall carry an
14 effective date for the new poisons added. No poison shall be added
15 by the ~~director~~ department under this section unless the same shall
16 be as toxic in its effect as any of the poisons enumerated under
17 section 71-2501. Whenever the ~~director~~ department shall propose
18 to bring any additional poisons under such section, the proposal
19 shall be set down for hearing. At least ten days' notice of such
20 hearing shall be given by the ~~director.~~ department. The notice
21 shall designate the poison to be added and shall state the time
22 and place of the hearing. Such notice shall be given by such
23 means as the ~~director~~ department shall determine to be reasonably
24 calculated to notify the various interested parties. The ~~director~~
25 department shall have the power to adopt and promulgate such rules
26 and regulations with respect to the conduct of such hearings as may
27 be necessary. Any person aggrieved by any order of the ~~director~~

1 department passed pursuant to this section may appeal such order,
2 and the appeal shall be in accordance with the Administrative
3 Procedure Act.

4 Sec. 521. Section 71-2509, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-2509 The ~~Director of Regulation and Licensure~~
7 Department of Health and Human Services may, by regulation,
8 whenever ~~in his or her opinion~~ such action becomes necessary for
9 the protection of the public, prohibit the sale of any poison,
10 subject to the provisions of this section, except upon the original
11 written order or prescription of those practitioners of the healing
12 arts, named in section 71-102, who are duly authorized by law
13 to administer or professionally use those poisons specifically
14 named in section 71-2501. Whenever in the opinion of the ~~director~~
15 department it is in the interest of the public health, ~~he or she~~
16 the department is empowered to adopt rules and regulations, not
17 inconsistent with the provisions of sections 71-2501 to 71-2511,
18 further restricting or prohibiting the retail sale of any poison.
19 The rules and regulations must be applicable to all persons alike,
20 and it shall be the duty of the ~~director, department,~~ upon request,
21 to furnish any person, authorized by sections 71-2501 to 71-2511
22 to sell or dispense any poisons, with a list of all articles,
23 preparations, and compounds the sale of which is prohibited or
24 regulated by ~~said~~ such sections.

25 Sec. 522. Section 71-2511, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-2511 Any person, partnership, limited liability

1 company, association, or corporation violating any of the
2 provisions of sections 71-2502 to 71-2511 or any of the rules
3 or regulations ~~passed~~ adopted and promulgated by the ~~Director of~~
4 Regulation and Licensure Department of Health and Human Services
5 pursuant to ~~the~~ sections 71-2502 to 71-2511 shall be deemed guilty
6 of a Class V misdemeanor.

7 Sec. 523. Section 71-2610, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-2610 ~~(1)~~ The State Board of Health shall advise the
10 Division of Public Health of the Department of Health and Human
11 Services ~~Regulation and Licensure~~ regarding:

12 ~~(a)~~ (1) Rules and regulations for the government of the
13 ~~department;~~ division;

14 ~~(b)~~ (2) The policies of the ~~department~~ division as they
15 relate to support provided to the board;

16 ~~(c)~~ (3) The policies of the ~~department~~ division
17 concerning the professions and occupations described in section
18 71-2610.01;

19 ~~(d)~~ (4) Communication and cooperation among the
20 professional boards; and

21 ~~(e)~~ (5) Plans of organization or reorganization of the
22 ~~department.~~ division.

23 ~~(2) Upon request of the Policy Cabinet, the board shall~~
24 ~~advise them on matters pertaining to public health.~~

25 Sec. 524. Section 71-2610.01, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 71-2610.01 The State Board of Health shall:

1 (1) Adopt and promulgate rules and regulations for the
2 government of the professions and occupations licensed, certified,
3 registered, or issued permits by the Division of Public Health
4 of the Department of Health and Human Services, ~~Regulation and~~
5 ~~Licensure~~, including rules and regulations necessary to implement
6 laws enforced by the ~~department~~, division. These professions and
7 occupations are those subject to the Advanced Practice Registered
8 Nurse Licensure Act, the Asbestos Control Act, the Certified
9 Registered Nurse Anesthetist Act, the Clinical Nurse Specialist
10 Practice Act, the Licensed Practical Nurse-Certified Act, the
11 Nebraska Certified Nurse Midwifery Practice Act, the Nebraska
12 Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner
13 Act, the Occupational Therapy Practice Act, the Radiation Control
14 Act, the Residential Lead-Based Paint Professions Certification
15 Act, the Uniform Controlled Substances Act, the Uniform Licensing
16 Law, the Wholesale Drug Distributor Licensing Act, or sections
17 71-102, 71-3702 to 71-3715, 71-4701 to 71-4719, and 71-6053 to
18 71-6068;

19 (2) Serve in an advisory capacity for other rules and
20 regulations adopted and promulgated by the ~~department~~, division,
21 including those for health care facilities and environmental health
22 services;

23 (3) Carry out its powers and duties under the Nebraska
24 Regulation of Health Professions Act;

25 (4) Appoint and remove for cause members of
26 health-related professional boards as provided in sections
27 71-111, 71-112, and 71-118;

1 (5) At the discretion of the board, help mediate issues
2 related to the regulation of health care professions except issues
3 related to the discipline of health care professionals; and

4 (6) Have the authority to participate in the periodic
5 review of the regulation of health care professions.

6 All funds rendered available by law may be used by the
7 board in administering and effecting such purposes.

8 Sec. 525. Section 71-2617, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-2617 There is hereby created in the Department of
11 Health and Human Services ~~Regulation and Licensure~~ a cash fund to
12 be known as the Health and Human Services Reimbursement Fund. ~~Any~~
13 money in the Department of Health and Human Services Regulation
14 and Licensure Reimbursement Fund on the operative date of this act
15 shall be transferred to the Health and Human Services Reimbursement
16 Fund. The fund shall be used for payment of services performed for
17 the ~~Department of Health and Human Services Finance and Support~~
18 department for inspection and licensing of hospitals and nursing
19 homes under Title XIX of the federal Social Security Act. ~~Any money~~
20 ~~in the Department of Health Reimbursement Fund on January 1, 1997,~~
21 ~~shall be transferred to the Department of Health and Human Services~~
22 ~~Regulation and Licensure Reimbursement Fund~~. Any money in the fund
23 available for investment shall be invested by the state investment
24 officer pursuant to the Nebraska Capital Expansion Act and the
25 Nebraska State Funds Investment Act.

26 Sec. 526. Section 71-2619, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 71-2619 (1) The Department of Health and Human Services
2 ~~Regulation and Licensure~~ may by regulation establish fees to defray
3 the costs of providing specimen containers, shipping outfits, and
4 related supplies and fees to defray the costs of certain laboratory
5 examinations as requested by individuals, firms, corporations, or
6 governmental agencies in the state. Fees for the provision of
7 certain classes of shipping outfits or specimen containers shall
8 be no more than the actual cost of materials, labor, and delivery.
9 Fees for the provision of shipping outfits may be made when no
10 charge is made for service.

11 (2) Fees may be established by regulation for chemical
12 or microbiological examinations of various categories of water
13 samples. Fees established for examination of water to ascertain
14 qualities for domestic, culinary, and associated uses shall be
15 set to defray no more than the actual cost of the tests
16 in the following categories: (a) Inorganic chemical assays; (b)
17 organic pollutants; and (c) bacteriological examination to indicate
18 sanitary quality as coliform density by membrane filter test or
19 equivalent test.

20 (3) Fees for examinations of water from lakes, streams,
21 impoundments, or similar sources, from wastewaters, or from ground
22 water for industrial or agricultural purposes may be charged
23 in amounts established by regulation but shall not exceed one
24 and one-half times the limits set by ~~department~~ regulation for
25 examination of domestic waters.

26 (4) Fees may be established by regulation for chemical
27 or microbiological examinations of various categories of samples to

1 defray no more than the actual cost of testing. Such fees may be
2 charged for:

3 (a) Any specimen submitted for radiochemical analysis or
4 characterization;

5 (b) Any material submitted for chemical characterization
6 or quantitation; and

7 (c) Any material submitted for microbiological
8 characterization.

9 (5) Fees may be established by regulation for the
10 examinations of certain categories of biological and clinical
11 specimens to defray no more than the actual costs of testing.
12 Such fees may be charged for examinations pursuant to law or
13 ~~departmental~~ regulation of:

14 (a) Any specimen submitted for chemical examination for
15 assessment of health status or functional impairment;

16 (b) Any specimen submitted for microbiological
17 examination which is not related to direct human contact with the
18 microbiological agent; and

19 (c) A specimen submitted for microbiological examination
20 or procedure by an individual, firm, corporation, or governmental
21 unit other than the ~~Department of Health and Human Services~~
22 ~~Regulation and Licensure~~ department.

23 (6) The department shall not charge fees for tests that
24 include microbiological isolation, identification examination, or
25 other laboratory examination for the following:

26 (a) A contagious disease when the ~~Department of~~
27 ~~Health and Human Services Regulation and Licensure~~ department is

1 authorized by law or ~~regulations~~ regulation to directly supervise
2 the prevention, control, or surveillance of such contagious
3 disease;

4 (b) Any emergency when the health of the people of any
5 part of the state is menaced or exposed pursuant to section 71-502;
6 and

7 (c) When adopting or enforcing special quarantine and
8 sanitary regulations authorized by the department.

9 (7) Combinations of different tests or groups of tests
10 submitted together may be offered at rates less than those set for
11 individual tests as allowed in this section and shall defray the
12 actual costs.

13 (8) Fees may be established by regulation to defray no
14 more than the actual costs of conducting qualifying inspections
15 in order to make laboratory agreements between the department and
16 laboratories other than the Department of Health and Human Services
17 ~~Regulation and Licensure~~ Laboratory for the purpose of conducting
18 analyses of drinking water as prescribed in section 71-5306. The
19 inspection fees shall be collected on an annual schedule from those
20 laboratories which enter into an agreement with the department
21 for the purpose of conducting laboratory analyses of water. Such
22 fees shall not exceed the amount in the following categories:

- 23 (a) Bacteriological examination agreement, one hundred and fifty
24 dollars; (b) inorganic chemical analyses agreement, one hundred
25 dollars; (c) heavy metal analyses agreement, two hundred dollars;
26 (d) organic chemical analyses agreement, two hundred dollars; and
27 (e) radiochemical analyses agreement, two hundred dollars.

1 (9) All fees collected pursuant to this section shall be
2 deposited in the state treasury and credited to the ~~Department of~~
3 ~~Health and Human Services Regulation and Licensure~~ Health and Human
4 Services Cash Fund.

5 Sec. 527. Section 71-2620, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-2620 The Department of Health and Human Services
8 ~~Regulation and Licensure~~ may enter into agreements, not exceeding
9 one year in duration, with any other governmental agency relative
10 to the provision of certain laboratory tests and services to
11 the agency. Such services shall be provided as stipulated in the
12 agreement and for such fee, either lump sum or by the item, as
13 is mutually agreed upon and as complies with the provisions of
14 section 71-2619. All laboratories performing human genetic testing
15 for clinical diagnosis and treatment purposes shall be accredited
16 by the College of American Pathologists or by any other national
17 accrediting body or public agency which has requirements that are
18 substantially equivalent to or more comprehensive than those of the
19 college.

20 Sec. 528. Section 71-2621, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-2621 All fees collected for laboratory tests and
23 services pursuant to sections 71-2619 and 71-2620 shall be paid
24 into the state treasury and by the State Treasurer credited to the
25 ~~Department of Health and Human Services Regulation and Licensure~~
26 Health and Human Services Cash Fund, which shall be used to
27 partially defray the costs of labor, operations, supplies, and

1 materials in the operations of the Department of Health and Human
2 Services. ~~Regulation and Licensure.~~

3 Sec. 529. Section 71-2622, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-2622 The Department of Health and Human Services
6 ~~Regulation and Licensure~~ shall collect a fee of not less than sixty
7 nor more than one hundred dollars, as determined by ~~departmental~~
8 regulation, for each inspection of private water supply or private
9 sewage disposal facilities requested of and made by the department
10 in order for the person requesting the inspection to qualify for
11 any type of commercial loan, guarantee, or other type of payment
12 or benefit from any commercial agency or enterprise to the person
13 applying for or receiving the same or to meet the requirements of
14 any federal governmental agency, including, but not limited to, the
15 Farmers Home Administration, the Federal Housing Administration,
16 and the United States Department of Veterans Affairs, that such an
17 inspection be conducted as a condition of applying for or receiving
18 any type of grant, loan, guarantee, or other type of payment or
19 benefit from such agency to the person applying for or receiving
20 the same. All fees so collected shall be paid into the state
21 treasury and by the State Treasurer credited to the ~~Department of~~
22 ~~Health and Human Services Regulation and Licensure~~ Health and Human
23 Services Cash Fund.

24 Sec. 530. Section 71-3101, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-3101 As used in sections 71-3101 to 71-3107, unless
27 the context otherwise requires:

1 (1) Recreation camp shall mean one or more temporary or
2 permanent tents, buildings, structures, or site pads, together with
3 the tract of land appertaining thereto, established or maintained
4 for more than a forty-eight-hour period as living quarters or sites
5 used for purposes of sleeping or the preparation and the serving of
6 food extending beyond the limits of a family group for children or
7 adults, or both, for recreation, education, or vacation purposes,
8 and including facilities located on either privately or publicly
9 owned lands except hotels or inns;

10 (2) Person shall mean any individual or group of
11 individuals, association, partnership, limited liability company,
12 or corporation; and

13 (3) Department shall mean the Department of Health and
14 Human Services. ~~Regulation and Licensure.~~

15 Sec. 531. Section 71-3102, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-3102 Before any person shall directly or indirectly
18 operate a recreation camp he or she shall make an application
19 to the department and receive a valid permit for the operation
20 of such camp. Application for such a permit shall be made at
21 least thirty days prior to the proposed operation of the camp and
22 shall be on forms supplied by the department upon request. The
23 application shall be in such form and contain such information as
24 the department may deem necessary to its determination that the
25 recreation camp will be operated and maintained in such a manner
26 as to protect and preserve the health and safety of the persons
27 using the camp and shall be accompanied by an annual fee. The

1 department may establish fees by regulation to defray the actual
2 costs of issuing the permit, conducting inspections, and other
3 expenses incurred by the department in carrying out this section.
4 If the applicant is an individual, the application shall include
5 the applicant's social security number. Where a person operates or
6 is seeking to operate more than one recreation camp, a separate
7 application shall be made for each camp. Such a permit shall not
8 be transferable or assignable. It shall expire one year from the
9 date of its issuance, upon a change of operator of the camp,
10 or upon revocation. If the department finds, after investigation,
11 that the camp or the proposed operation thereof conforms, or will
12 conform, to the minimum standards for recreation camps, a permit on
13 a form prescribed by the department shall be issued for operation
14 of the camp. All fees shall be remitted to the State Treasurer for
15 credit to the ~~Department of Health and Human Services Regulation~~
16 ~~and Licensure~~ Health and Human Services Cash Fund.

17 Sec. 532. Section 71-3104, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-3104 (1) A permit may be temporarily suspended by
20 the ~~Director of Regulation and Licensure~~ department for failure to
21 protect the health and safety of the occupants of the camp, or
22 a failure to comply with the camp regulations prescribed by the
23 department.

24 (2) A permit may be revoked at any time, after notice and
25 opportunity for a fair hearing held by the ~~Director of Regulation~~
26 ~~and Licensure,~~ department, ~~if the director finds it is found that~~
27 the camp for which the permit is issued is maintained or operated

1 in violation of law or of any regulations applicable to a camp or
2 in violation of the conditions stated in the permit. A new permit
3 shall not be issued until the department is satisfied that the camp
4 will be operated in compliance with the law and regulations.

5 Sec. 533. Section 71-3305, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-3305 (1) Except as provided in subsection (2) of
8 this section, any political subdivision as defined in section
9 13-702, that provides the water supply of any city or village for
10 human consumption shall add fluoride to such water supply in the
11 amount and manner prescribed by the rules and regulations of the
12 Department of Health and Human Services. ~~Regulation and Licensure.~~

13 (2) Fluoride shall not be added to the water supply of
14 any city or village in which the voters have, after September 2,
15 1973, adopted an ordinance by initiative prohibiting the adding of
16 fluoride to its water supply. The procedure for the adoption of
17 any such ordinance shall be that provided in sections 18-2501 to
18 18-2536. No such ordinance may be adopted in a city or village
19 receiving, or which has contracted to receive, its water supply,
20 or any part thereof, from another political subdivision, or public
21 or private entity, which adds fluoride to its water supply in
22 compliance with subsection (1) of this section, or section 71-3306,
23 or which has available only purchased fluoridated water with which
24 to supply such city or village.

25 Sec. 534. Section 71-3306, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-3306 Any public or private entity not included in

1 section 71-3305 which provides a water supply for human consumption
2 and which is not required to add fluoride to such water supply
3 may add fluoride to such water supply in the amount and manner
4 prescribed by the rules and regulations of the Department of Health
5 and Human Services, ~~Regulation and Licensure.~~

6 Sec. 535. Section 71-3401, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-3401 Any person, hospital, sanitarium, nursing
9 home, rest home, or other organization may provide information,
10 interviews, reports, statements, memoranda, or other data relating
11 to the condition and treatment of any person to the Department of
12 Health and Human Services, ~~Regulation and Licensure,~~ the Nebraska
13 Medical Association or any of its allied medical societies,
14 the Nebraska Association of Hospitals and Health Systems, any
15 inhospital staff committee, or any joint venture of such entities
16 to be used in the course of any study for the purpose of reducing
17 morbidity or mortality, and no liability of any kind or character
18 for damages or other relief shall arise or be enforced against
19 any person or organization by reason of having provided such
20 information or material, by reason of having released or published
21 the findings and conclusions of such groups to advance medical
22 research and medical education, or by reason of having released or
23 published generally a summary of such studies.

24 Sec. 536. Section 71-3402, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-3402 The Department of Health and Human Services, ~~27 Regulation and Licensure,~~ the Nebraska Medical Association or

1 any of its allied medical societies, the Nebraska Association
2 of Hospitals and Health Systems, any inhospital staff committee,
3 or any joint venture of such entities shall use or publish the
4 material specified in section 71-3401 only for the purpose of
5 advancing medical research or medical education in the interest
6 of reducing morbidity or mortality, except that a summary of such
7 studies may be released by any such group for general publication.
8 In all events the identity of any person whose condition or
9 treatment has been studied shall be confidential and shall not be
10 revealed under any circumstances.

11 Sec. 537. Section 71-3406, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 71-3406 (1) The ~~Director~~ chief executive officer of the
14 Department of Health and Human Services shall appoint a minimum
15 of eight and a maximum of twelve members to the State Child
16 Death Review Team. The core members shall be (a) a physician
17 employed by the ~~Nebraska Health and Human Services System,~~ as
18 ~~referred to in section 81-3006,~~ department, who shall be a
19 permanent member and shall serve as the chairperson of the
20 team, (b) a senior staff member with child protective services
21 of the ~~Department of Health and Human Services,~~ department, (c)
22 a forensic pathologist, (d) a law enforcement representative, and
23 (e) an attorney. The remaining members appointed may be, but shall
24 not be limited to, the following: A county attorney; a Federal
25 Bureau of Investigation agent responsible for investigations on
26 Native American reservations; a social worker; and members of
27 organizations which represent hospitals or physicians.

1 (2) Members shall serve four-year terms with the
2 exception of the chairperson. In the absence of the chairperson,
3 the ~~Director of Health and Human Services~~ chief executive
4 officer may appoint another member of the core team to serve as
5 chairperson.

6 (3) The team shall not be considered a public body for
7 purposes of the Open Meetings Act. The team shall meet a minimum
8 of four times a year. Members of the team shall be reimbursed for
9 their actual and necessary expenses as provided in sections 81-1174
10 to 81-1177.

11 Sec. 538. Section 71-3410, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-3410 Upon request the team shall be immediately
14 provided:

15 (1) Information and records maintained by a provider
16 of medical, dental, prenatal, and mental health care, including
17 medical reports, autopsy reports, and emergency and paramedic
18 records; and

19 (2) All information and records maintained by any state,
20 county, or local government agency, including, but not limited to,
21 birth and death certificates, law enforcement investigative data
22 and reports, coroner investigative data and reports, parole and
23 probation information and records, and information and records of
24 any social services agency that provided services to the child or
25 the child's family.

26 The ~~Director~~ Department of Health and Human Services
27 shall have the authority to issue subpoenas to compel production

1 of any of the records and information specified in subdivisions
2 (1) and (2) of this section, except records and information on any
3 child death under active investigation by a law enforcement agency
4 or which is at the time the subject of a criminal prosecution, and
5 shall provide such records and information to the team.

6 Sec. 539. Section 71-3502.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-3502.01 ~~The Department of Health and Human Services~~
9 ~~Regulation and Licensure~~ department may establish an alternative
10 maximum contaminant level for radon in drinking water by
11 establishing a multimedia radon mitigation program as provided
12 under federal law which may include public education, testing,
13 training, technical assistance, remediation grants, and loan or
14 incentive programs. The purpose of the radon mitigation program
15 shall be to achieve health risk reduction benefits equal to or
16 greater than the health risk reduction benefits that would be
17 achieved if each public water system in the state complied with the
18 maximum contaminant level of three hundred picocuries per liter.

19 Sec. 540. Section 71-3503, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-3503 For purposes of the Radiation Control Act, unless
22 the context otherwise requires:

23 (1) Radiation means ionizing radiation and nonionizing
24 radiation as follows:

25 (a) Ionizing radiation means gamma rays, X-rays, alpha
26 and beta particles, high-speed electrons, neutrons, protons, and
27 other atomic or nuclear particles or rays but does not include

1 sound or radio waves or visible, infrared, or ultraviolet light;
2 and

3 (b) Nonionizing radiation means (i) any electromagnetic
4 radiation which can be generated during the operations of
5 electronic products to such energy density levels as to present
6 a biological hazard to occupational and public health and safety
7 and the environment, other than ionizing electromagnetic radiation,
8 and (ii) any sonic, ultrasonic, or infrasonic waves which are
9 emitted from an electronic product as a result of the operation of
10 an electronic circuit in such product and to such energy density
11 levels as to present a biological hazard to occupational and public
12 health and safety and the environment;

13 (2) Radioactive material means any material, whether
14 solid, liquid, or gas, which emits ionizing radiation
15 spontaneously. Radioactive material includes, but is not
16 limited to, accelerator-produced material, byproduct material,
17 naturally occurring material, source material, and special nuclear
18 material;

19 (3) Radiation-generating equipment means any manufactured
20 product or device, component part of such a product or device,
21 or machine or system which during operation can generate or emit
22 radiation except devices which emit radiation only from radioactive
23 material;

24 (4) Sources of radiation means any radioactive material,
25 any radiation-generating equipment, or any device or equipment
26 emitting or capable of emitting radiation or radioactive material;

27 (5) Undesirable radiation means radiation in such

1 quantity and under such circumstances as determined from time
2 to time by rules and regulations adopted and promulgated by the
3 department;

4 (6) Person means any individual, corporation,
5 partnership, limited liability company, firm, association,
6 trust, estate, public or private institution, group, agency,
7 political subdivision of this state, any other state or
8 political subdivision or agency thereof, and any legal successor,
9 representative, agent, or agency of the foregoing;

10 (7) Registration means registration with the department
11 pursuant to the Radiation Control Act;

12 (8) Department means the Department of Health and Human
13 Services; ~~Regulation and Licensure;~~

14 (9) ~~Coordinator means the Director of Regulation and~~
15 ~~Licensure;~~ Administrator means the administrator of radiation
16 control designated pursuant to section 71-3504;

17 (10) Electronic product means any manufactured product,
18 device, assembly, or assemblies of such products or devices which,
19 during operation in an electronic circuit, can generate or emit a
20 physical field of radiation;

21 (11) License means:

22 (a) A general license issued pursuant to rules and
23 regulations adopted and promulgated by the department without the
24 filing of an application with the department or the issuance of
25 licensing documents to particular persons to transfer, acquire,
26 own, possess, or use quantities of or devices or equipment
27 utilizing radioactive materials;

1 (b) A specific license, issued to a named person upon
2 application filed with the department pursuant to the Radiation
3 Control Act and rules and regulations adopted and promulgated
4 pursuant to the act, to use, manufacture, produce, transfer,
5 receive, acquire, own, or possess quantities of or devices or
6 equipment utilizing radioactive materials;

7 (c) A license issued to a radon measurement specialist,
8 radon measurement technician, radon mitigation specialist, radon
9 mitigation technician, radon measurement business, or radon
10 mitigation business; or

11 (d) A license issued to a medical radiographer or limited
12 radiographer;

13 (12) Byproduct material means:

14 (a) Any radioactive material, except special nuclear
15 material, yielded in or made radioactive by exposure to the
16 radiation incident to the process of producing or utilizing special
17 nuclear material; and

18 (b) The tailings or wastes produced by the extraction
19 or concentration of uranium or thorium from any ore processed
20 primarily for its source material content, including discrete
21 surface wastes resulting from uranium or thorium solution
22 extraction processes. Underground ore bodies depleted by such
23 solution extraction operations do not constitute byproduct
24 material;

25 (13) Source material means:

26 (a) Uranium or thorium or any combination thereof in any
27 physical or chemical form; or

1 (b) Ores which contain by weight one-twentieth of one
2 percent or more of uranium, thorium, or any combination thereof.

3 Source material does not include special nuclear material;

4 (14) Special nuclear material means:

5 (a) Plutonium, uranium 233, or uranium enriched in the
6 isotope 233 or in the isotope 235 and any other material that
7 the United States Nuclear Regulatory Commission pursuant to the
8 provisions of section 51 of the federal Atomic Energy Act of 1954,
9 as amended, determines to be special nuclear material but does not
10 include source material; or

11 (b) Any material artificially enriched by any material
12 listed in subdivision (14)(a) of this section but does not include
13 source material;

14 (15) Users of sources of radiation means:

15 (a) Physicians using radioactive material or
16 radiation-generating equipment for human use;

17 (b) Natural persons using radioactive material or
18 radiation-generating equipment for education, research, or
19 development purposes;

20 (c) Natural persons using radioactive material or
21 radiation-generating equipment for manufacture or distribution
22 purposes;

23 (d) Natural persons using radioactive material or
24 radiation-generating equipment for industrial purposes; and

25 (e) Natural persons using radioactive material or
26 radiation-generating equipment for any other similar purpose;

27 (16) Civil penalty means any monetary penalty levied on

1 a licensee or registrant because of violations of statutes, rules,
2 regulations, licenses, or registration certificates but does not
3 include criminal penalties;

4 (17) Closure means all activities performed at a waste
5 handling, processing, management, or disposal site, such as
6 stabilization and contouring, to assure that the site is in a
7 stable condition so that only minor custodial care, surveillance,
8 and monitoring are necessary at the site following termination of
9 licensed operation;

10 (18) Decommissioning means final operational activities
11 at a facility to dismantle site structures, to decontaminate
12 site surfaces and remaining structures, to stabilize and contain
13 residual radioactive material, and to carry out any other
14 activities to prepare the site for postoperational care;

15 (19) Disposal means the permanent isolation of low-level
16 radioactive waste pursuant to the Radiation Control Act and rules
17 and regulations adopted and promulgated pursuant to such act;

18 (20) Generate means to produce low-level radioactive
19 waste when used in relation to low-level radioactive waste;

20 (21) High-level radioactive waste means:

21 (a) Irradiated reactor fuel;

22 (b) Liquid wastes resulting from the operation of the
23 first cycle solvent extraction system or equivalent and the
24 concentrated wastes from subsequent extraction cycles or the
25 equivalent in a facility for reprocessing irradiated reactor fuel;
26 and

27 (c) Solids into which such liquid wastes have been

1 converted;

2 (22) Low-level radioactive waste means radioactive waste
3 not defined as high-level radioactive waste, spent nuclear fuel,
4 or byproduct material as defined in subdivision (12)(b) of this
5 section;

6 (23) Management of low-level radioactive waste means the
7 handling, processing, storage, reduction in volume, disposal, or
8 isolation of such waste from the biosphere in any manner;

9 (24) Source material mill tailings or mill tailings means
10 the tailings or wastes produced by the extraction or concentration
11 of uranium or thorium from any ore processed primarily for
12 its source material content, including discrete surface wastes
13 resulting from underground solution extraction processes, but
14 not including underground ore bodies depleted by such solution
15 extraction processes;

16 (25) Source material milling means any processing of ore,
17 including underground solution extraction of unmined ore, primarily
18 for the purpose of extracting or concentrating uranium or thorium
19 therefrom and which results in the production of source material
20 and source material mill tailings;

21 (26) Spent nuclear fuel means irradiated nuclear fuel
22 that has undergone at least one year of decay since being used as
23 a source of energy in a power reactor. Spent nuclear fuel includes
24 the special nuclear material, byproduct material, source material,
25 and other radioactive material associated with fuel assemblies;

26 (27) Transuranic waste means radioactive waste material
27 containing alpha-emitting radioactive elements, with radioactive

1 half-lives greater than five years, having an atomic number greater
2 than 92 in concentrations in excess of one hundred nanocuries per
3 gram;

4 (28) Licensed practitioner means a person licensed to
5 practice medicine, dentistry, podiatry, chiropractic, osteopathic
6 medicine and surgery, or as an osteopathic physician;

7 (29) X-ray system means an assemblage of components for
8 the controlled production of X-rays, including, but not limited to,
9 an X-ray high-voltage generator, an X-ray control, a tube housing
10 assembly, a beam-limiting device, and the necessary supporting
11 structures. Additional components which function with the system
12 are considered integral parts of the system;

13 (30) Limited radiographer means a person licensed
14 to practice medical radiography pursuant to subsection (2) of
15 section 71-3515.01. Limited radiographer does not include a person
16 certified under section 71-176.01;

17 (31) Medical radiographer means a person licensed to
18 practice medical radiography pursuant to subsection (1) of section
19 71-3515.01;

20 (32) Medical radiography means the application of
21 radiation to humans for diagnostic purposes, including, but not
22 limited to, adjustment or manipulation of X-ray systems and
23 accessories including image receptors, positioning of patients,
24 processing of films, and any other action that materially affects
25 the radiation dose to patients;

26 (33) Licensed facility operator means any person or
27 entity who has obtained a license under the Low-Level Radioactive

1 Waste Disposal Act to operate a facility, including any person
2 or entity to whom an assignment of a license is approved by the
3 Department of Environmental Quality; and

4 (34) Deliberate misconduct means an intentional act or
5 omission by a person that (a) would intentionally cause a licensee,
6 registrant, or applicant for a license or registration to be
7 in violation of any rule, regulation, or order of or any term,
8 condition, or limitation of any license or registration issued by
9 the department under the Radiation Control Act or (b) constitutes
10 an intentional violation of a requirement, procedure, instruction,
11 contract, purchase order, or policy under the Radiation Control
12 Act by a licensee, a registrant, an applicant for a license or
13 registration, or a contractor or subcontractor of a licensee,
14 registrant, or applicant for a license or registration.

15 Sec. 541. Section 71-3504, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-3504 (1) ~~The Director of Regulation and Licensure~~
18 ~~shall be the coordinator of~~ Department of Health and Human Services
19 shall coordinate radiation control activities and may designate
20 a ~~Director of Radiation Control.~~ an administrator of radiation
21 control. ~~The Director of Regulation and Licensure~~ administrator
22 shall:

23 (a) Advise the Governor and agencies of the state on
24 matters relating to radiation; and

25 (b) Coordinate regulatory activities of the state
26 relating to radiation, including cooperation with other states and
27 the federal government.

1 (2) The Director of Regulation and Licensure
2 administrator shall:

3 (a) Review before and after the holding of any public
4 hearing required under the Administrative Procedure Act, prior to
5 promulgation, the proposed rules and regulations of all agencies
6 of the state relating to use and control of radiation to assure
7 that such rules and regulations are consistent with rules and
8 regulations of other agencies of the state;

9 (b) When he or she determines that proposed rules or
10 regulations or parts thereof are inconsistent with rules and
11 regulations of other agencies of the state, make an effort
12 to resolve such inconsistencies. Upon notification that such
13 inconsistencies have not been resolved, the Governor may, after
14 consultation with the ~~Director of Regulation and Licensure,~~
15 department, find that the proposed rules and regulations or parts
16 thereof are inconsistent with rules and regulations of other
17 agencies of the state or the federal government and may issue
18 an order to that effect, in which event the proposed rules and
19 regulations or parts thereof shall not become effective. The
20 Governor may, in the alternative, upon a similar determination,
21 direct the appropriate agency or agencies to amend or repeal
22 existing rules and regulations to achieve consistency with the
23 proposed rules and regulations;

24 (c) Advise, consult, and cooperate with other agencies
25 of the state, the federal government, other states, interstate
26 agencies, political subdivisions, and other organizations concerned
27 with control of sources of radiation; and

1 (d) Collect and disseminate information relating to the
2 control of sources of radiation and maintain (i) a file of all
3 registrants, license applications, issuances, denials, amendments,
4 transfers, renewals, modifications, inspections, recommendations
5 pertaining to radiation, suspensions, and revocations, (ii) a file
6 of registrants possessing or using sources of radiation requiring
7 registration under the Radiation Control Act and any administrative
8 or judicial action pertaining to such registration, and (iii) a
9 file of all rules and regulations relating to the regulation of
10 sources of radiation, pending or promulgated, and proceedings on
11 such rules and regulations thereon.

12 (3) The several agencies of the state and political
13 subdivisions shall keep the ~~coordinator~~ administrator fully and
14 currently informed as to their activities relating to development
15 of new uses and regulation of sources of radiation.

16 Sec. 542. Section 71-3505, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-3505 Matters relative to radiation as they relate to
19 occupational and public health and safety and the environment shall
20 be a responsibility of the department. The department shall:

21 (1) Develop comprehensive policies and programs for the
22 evaluation and determination of undesirable radiation associated
23 with the production, use, storage, or disposal of radiation sources
24 and formulate, adopt, promulgate, and repeal rules and regulations
25 which may provide (a) for registration or licensure under section
26 71-3507 or 71-3509 and (b) for registration or licensure of (i)
27 any other source of radiation, (ii) persons providing services

1 for collection, detection, measurement, or monitoring of sources
2 of radiation, including, but not limited to, radon and its
3 decay products, (iii) persons providing services to reduce the
4 effects of sources of radiation, (iv) persons practicing medical
5 radiography, and (v) persons practicing industrial radiography,
6 as specified by rule or regulation so as to reasonably protect
7 occupational and public health and safety and the environment
8 in a manner compatible with regulatory programs of the federal
9 government. The department for identical purposes may also adopt
10 and promulgate rules and regulations for the issuance of licenses,
11 either general or specific, to persons for the purpose of using,
12 manufacturing, producing, transporting, transferring, receiving,
13 acquiring, owning, or possessing any radioactive material. Such
14 rules and regulations may prohibit the use of radiation for
15 uses found by the department to be detrimental to occupational
16 and public health or safety or the environment and shall carry
17 out the purposes and policies set out in sections 71-3501
18 and 71-3502. Such rules and regulations shall not prohibit
19 or limit the kind or amount of radiation purposely prescribed
20 for or administered to a patient by doctors of medicine and
21 surgery, dentistry, osteopathic medicine, chiropractic, podiatry,
22 and veterinary medicine, while engaged in the lawful practice of
23 such profession, or administered by other professional personnel,
24 such as allied health personnel, medical radiographers, limited
25 radiographers, nurses, and laboratory workers, acting under the
26 supervision of a licensed practitioner. Violation of rules and
27 regulations adopted and promulgated by the department pursuant to

1 the Radiation Control Act shall be due cause for the suspension,
2 revocation, or limitation of a license issued by the department.
3 Any licensee may request a hearing before the department on the
4 issue of such suspension, revocation, or limitation. Procedures for
5 notice and opportunity for a hearing before the department shall be
6 pursuant to the Administrative Procedure Act. The decision of the
7 department may be appealed, and the appeal shall be in accordance
8 with the Administrative Procedure Act;

9 (2) Have the authority to accept and administer loans,
10 grants, or other funds or gifts, conditional or otherwise, in
11 furtherance of its functions, from the federal government and from
12 other sources, public or private;

13 (3) Encourage, participate in, or conduct studies,
14 investigations, training, research, and demonstrations relating to
15 the control of sources of radiation;

16 (4) Collect and disseminate health education information
17 relating to radiation protection;

18 (5) Make its facilities available so that any person or
19 any agency may request the department to review and comment on
20 plans and specifications of installations submitted by the person
21 or agency with respect to matters of protection and safety for the
22 control of undesirable radiation;

23 (6) Be empowered to inspect radiation sources and their
24 shieldings and surroundings for the determination of any possible
25 undesirable radiation or violations of rules and regulations
26 adopted and promulgated by the department and provide the owner,
27 user, or operator with a report of any known or suspected

1 deficiencies; and

2 (7) Collect a fee for emergency response or environmental
3 surveillance, or both, offsite from each nuclear power plant equal
4 to the cost of completing the emergency response or environmental
5 surveillance and any associated report. In no event shall the
6 fee for any nuclear power plant exceed the lesser of the
7 actual costs of such activities or fifty-three thousand dollars
8 per annum. Commencing July 1, 1997, the accounting division
9 of the Department of Administrative Services shall recommend an
10 inflationary adjustment equivalent which shall be based upon the
11 Consumer Price Index for All Urban Consumers of the United States
12 Department of Labor, Bureau of Labor Statistics, and shall not
13 exceed five percent per annum. Such adjustment shall be applied to
14 the annual fee for nuclear power plants. The fee collected shall be
15 credited to the ~~Department of Health and Human Services Regulation~~
16 ~~and Licensure~~ Health and Human Services Cash Fund. This fee shall
17 be used solely for the purpose of defraying the direct costs of the
18 emergency response and environmental surveillance at Cooper Nuclear
19 Station and Fort Calhoun Station conducted by the department. The
20 department may charge additional fees when mutually agreed upon for
21 services, training, or equipment that are a part of or in addition
22 to matters in this section.

23 Sec. 543. Section 71-3508.03, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-3508.03 (1) The department shall establish by rule
26 and regulation annual fees for the radioactive materials licenses,
27 for inspections of radioactive materials, for the registration

1 and inspection of radiation-generating equipment and other sources
2 of radiation, and for radon measurement and mitigation business
3 licenses and inspections of radon mitigation systems installations
4 under the Radiation Control Act. The annual fee for registration
5 and inspection of X-ray radiation generating equipment used to
6 diagnose conditions in humans or animals shall not exceed seventy
7 dollars per X-ray machine. The department shall also establish by
8 rule and regulation additional fees for environmental surveillance
9 activities performed by the department to assess the radiological
10 impact of activities conducted by licensees and registrants. Such
11 activities shall not duplicate surveillance programs approved by
12 the federal Nuclear Regulatory Commission and conducted by entities
13 licensed by such commission. No fee shall exceed the actual cost to
14 the department for administering the act. The fees collected shall
15 be remitted to the State Treasurer for credit to the ~~Department of~~
16 ~~Health and Human Services Regulation and Licensure~~ Health and Human
17 Services Cash Fund and shall be used solely for the purpose of
18 defraying the direct and indirect costs of administering the act.
19 The department shall collect such fees.

20 (2) The department may, upon application by an interested
21 person or on its own initiative, grant such exemptions from
22 the requirements of this section as it determines are in the
23 public interest. Applications for exemption under this subsection
24 may include, but shall not be limited to, the use of licensed
25 materials for educational or noncommercial displays or scientific
26 collections.

27 (3) When a registrant or licensee fails to pay

1 the applicable fee, the department may suspend or revoke the
2 registration or license or may issue an appropriate order.

3 (4) The department shall establish and collect fees for
4 licenses for individuals engaged in radon detection, measurement,
5 and mitigation as provided in section 71-162.

6 Sec. 544. Section 71-3508.04, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-3508.04 (1) For licensed activities involving source
9 material milling, source material mill tailings, and management
10 of low-level radioactive waste, the department shall, and for
11 other classes of licensed activities the department may, adopt
12 and promulgate rules and regulations which establish standards and
13 procedures to ensure that the licensee will provide an adequate
14 surety or other financial arrangement to permit the completion
15 of all requirements established by the department for the
16 licensure, regulation, decontamination, closure, decommissioning,
17 and reclamation of sites, structures, and equipment used in
18 conjunction with such licensed activity in case the licensee
19 should default for any reason in performing such requirements.
20 All sureties required which are forfeited shall be paid to the
21 department and remitted to the State Treasurer for credit to the
22 ~~Department of Health and Human Services Regulation and Licensure~~
23 Health and Human Services Cash Fund. Money in such fund remitted
24 pursuant to this subsection shall be expended by the department as
25 necessary to complete the closure and reclamation requirements and
26 shall not be used for normal operating expenses of the department.

27 (2) For licensed activities involving the disposal

1 of source material mill tailings and management of low-level
2 radioactive waste, the department shall, and for other classes of
3 licensed activities when radioactive material which will require
4 surveillance or care is likely to remain at the site after the
5 licensed activities cease the department may, adopt and promulgate
6 rules and regulations which establish standards and procedures
7 to ensure that the licensee, before termination of the license,
8 will make available such funding arrangements as may be necessary
9 to provide for long-term site surveillance and care. All such
10 funds collected from licensees shall be paid to the department
11 and remitted to the State Treasurer for credit to the fund. All
12 funds accrued as interest on money credited to the fund pursuant
13 to this subsection may be expended by the department for the
14 continuing long-term surveillance, maintenance, and other care of
15 facilities from which such funds are collected as necessary for
16 protection of the occupational and public health and safety and the
17 environment. If title to and custody of any radioactive material
18 and its disposal site are transferred to the United States upon
19 termination of any license for which funds have been collected
20 for such long-term care, the collected funds and interest accrued
21 thereon shall be transferred to the United States.

22 (3) The sureties or other financial arrangements and
23 funds required by this section shall be established in amounts
24 sufficient to ensure compliance with standards, if any, established
25 by the department pertaining to licensure, regulation, closure,
26 decommissioning, reclamation, and long-term site surveillance and
27 care of such facilities and sites.

1 (4) To provide for the proper care and surveillance of
2 sites subject to subsection (2) of this section which are not
3 subject to section 71-3508.01 or 71-3508.02, the state may acquire
4 by gift or transfer from another governmental agency or private
5 person any land and appurtenances necessary to fulfill the purposes
6 of this section. Any such gift or transfer shall be subject to
7 approval and acceptance by the Legislature.

8 (5) The department may by contract, agreement, lease, or
9 license with any person, including another state agency, provide
10 for the decontamination, closure, decommissioning, reclamation,
11 surveillance, or other care of a site subject to this section as
12 needed to carry out the purposes of this section.

13 (6) If a person licensed by any governmental agency other
14 than the department desires to transfer a site to the state for the
15 purpose of administering or providing long-term care, a lump-sum
16 deposit shall be made to the department and remitted to the State
17 Treasurer for credit to the ~~Department of Health and Human Services~~
18 ~~Regulation and Licensure~~ Health and Human Services Cash Fund. The
19 amount of such deposit shall be determined by the department taking
20 into account the factors stated in subsections (1) and (2) of this
21 section.

22 Sec. 545. Section 71-3513, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-3513 (1) In any proceeding for the issuance or
25 modification of rules or regulations relating to control of sources
26 of radiation, the department shall provide an opportunity for
27 public participation through written comments and a public hearing.

1 (2) In any proceeding for the denial of an application
2 for a license or for the amendment, suspension, or revocation of a
3 license, the department shall provide the applicant or licensee an
4 opportunity for a hearing on the record.

5 (3) In any proceeding for licensing ores processed
6 primarily for their source material content and management of
7 byproduct material and source material mill tailings, or for
8 licensing management of low-level radioactive waste, the department
9 shall provide:

10 (a) An opportunity, after public notice, for written
11 comments and a public hearing with a transcript;

12 (b) An opportunity for cross-examination; and

13 (c) A written determination of the action to be taken
14 which is based upon findings included in the determination and upon
15 evidence presented during the public comment period.

16 (4) In any proceeding for licensing ores processed
17 primarily for their source material content and disposal of
18 byproduct material and source material mill tailings, or for
19 licensing management of low-level radioactive waste, the department
20 shall prepare, for each licensed activity which has a significant
21 impact on the occupational or public health and safety or the
22 environment, a written analysis of the impact of such licensed
23 activity. The analysis shall be available to the public before the
24 commencement of the hearing and shall include:

25 (a) An assessment of the radiological and nonradiological
26 impacts to the public health;

27 (b) An assessment of any impact on any waterway and

1 ground water;

2 (c) Consideration of alternatives, including alternative
3 sites and engineering methods, to the activities to be conducted;
4 and

5 (d) Consideration of the long-term impacts, including
6 decommissioning, decontamination, and reclamation of facilities and
7 sites associated with the licensed activities and management of
8 any radioactive materials which will remain on the site after such
9 decommissioning, decontamination, and reclamation.

10 (5) The department shall prohibit any major construction
11 with respect to any activity for which an environmental impact
12 analysis is required by this section prior to completion of such
13 analysis.

14 (6) Whenever the department finds that an emergency
15 exists with respect to radiation requiring immediate action
16 to protect occupational or public health and safety or the
17 environment, the department may, without notice, hearing, or
18 submission to the ~~coordinator~~, administrator, issue a regulation
19 or order reciting the existence of such emergency and requiring
20 that such action be taken as is necessary to meet the emergency.
21 Notwithstanding any provisions of the Radiation Control Act, such
22 regulation or order shall be effective immediately. Any person to
23 whom such regulation or order is directed shall comply immediately,
24 but on application to the department shall be afforded a hearing
25 not less than fifteen days and not more than thirty days after
26 filing of the application. On the basis of such hearing, the
27 emergency regulation or order shall be continued, modified, or

1 revoked within thirty days after such hearing, and the department
2 shall mail the applicant a copy of its findings of fact and
3 determination.

4 (7) Any final department action or order entered
5 pursuant to subsection (1), (2), (3), or (6) of this section
6 may be appealed, and the appeal shall be in accordance with the
7 Administrative Procedure Act.

8 Sec. 546. Section 71-3516.01, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-3516.01 (1) The department shall keep any source of
11 radiation impounded under section 71-3516 for as long as it is
12 needed as evidence for any hearing.

13 (2) Prior to the issuance of an order of disposition for
14 an impounded source of radiation, the department shall notify in
15 writing any person, known by the department to claim an interest
16 in the source of radiation, that the department intends to dispose
17 of the source of radiation. Notice shall be served by personal
18 service, by certified or registered mail to the last-known address
19 of the person, or by publication. Notice by publication shall
20 only be made if personal service or service by mail cannot be
21 effectuated.

22 (3) Within fifteen days after service of the notice under
23 subsection (2) of this section, any person claiming an interest
24 in the impounded source of radiation may request, in writing, a
25 hearing before the department to determine possession of the source
26 of radiation. The hearing shall be held in accordance with rules
27 and regulations adopted and promulgated by the department. If the

1 department determines that the person claiming an interest in the
2 source of radiation has proven by a preponderance of the evidence
3 that such person (a) had not used or intended to use the source
4 of radiation in violation of the Radiation Control Act, (b) has
5 an interest in the source of radiation acquired in good faith as
6 an owner, a lien holder, or otherwise, and (c) has the authority
7 under the act to possess such source of radiation, the department
8 shall order that possession of the source of radiation be given to
9 such person. If possession of the impounded source of radiation is
10 not given to the person requesting the hearing, such person may
11 appeal the decision of the department, and the appeal shall be in
12 accordance with the Administrative Procedure Act. If possession of
13 the impounded source of radiation is not given to the person so
14 appealing, the department shall order such person to pay for the
15 costs of the hearing, storage fees, and any other reasonable and
16 necessary expenses related to the impounded source of radiation.

17 (4) If possession of the impounded source of radiation is
18 not given to the person requesting the hearing under subsection (3)
19 of this section, the department shall issue an order of disposition
20 for the source of radiation and shall dispose of the source of
21 radiation as directed in the order. Disposition methods are at the
22 discretion of the department and may include, but are not limited
23 to, (a) sale of the source of radiation to a person authorized to
24 possess the source of radiation under the act, (b) transfer to the
25 manufacturer of the source of radiation, or (c) destruction of the
26 source of radiation. The order of disposition shall be considered a
27 transfer of title of the source of radiation.

1 (5) If expenses related to the impounded source of
2 radiation are not paid under subsection (3) of this section, the
3 department shall pay such expenses from:

4 (a) Proceeds from the sale of the source of radiation, if
5 sold; or

6 (b) Available funds in the ~~Department of Health and Human~~
7 ~~Services Regulation and Licensure~~ Health and Human Services Cash
8 Fund.

9 Sec. 547. Section 71-3517, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-3517 (1) Any person who violates any of the provisions
12 of the Radiation Control Act shall be guilty of a Class IV
13 misdemeanor.

14 (2) In addition to the penalty provided in subsection
15 (1) of this section, any person who violates any provision of the
16 Radiation Control Act or any rule, regulation, or order issued
17 pursuant to such act or any term, condition, or limitation of any
18 license or registration certificate issued pursuant to such act
19 shall be subject to:

20 (a) License revocation, suspension, modification,
21 condition, or limitation;

22 (b) The imposition of a civil penalty; or

23 (c) The terms of any appropriate order issued by the
24 department.

25 (3) Whenever the department proposes to subject a person
26 to the provisions of subsection (2) of this section, the department
27 shall notify the person in writing (a) setting forth the date,

1 facts, and nature of each act or omission with which the person
2 is charged, (b) specifically identifying the particular provision
3 or provisions of the section, rule, regulation, order, license, or
4 registration certificate involved in the violation, and (c) of the
5 sanction or order to be imposed. If a civil penalty is imposed, the
6 notice shall include a statement that it can be collected by civil
7 action. The notice shall be delivered to each alleged violator by
8 personal service, by certified or registered mail to his or her
9 last-known address, or by publication. Notice by publication shall
10 only be made if personal service or service by mail cannot be
11 effectuated. The sanction or order in the notice shall become final
12 thirty days after the mailing of the notice unless the applicant,
13 registrant, or licensee, within the thirty-day period, requests, in
14 writing, a hearing before the department. If the notice is served
15 by personal service or publication, the sanction or order shall
16 become final thirty days after completion of such service unless
17 the applicant, registrant, or licensee, within the thirty-day
18 period, requests, in writing, a hearing before the department.

19 (4) Hearings held pursuant to subsection (3) of this
20 section shall be held in accordance with rules and regulations
21 adopted and promulgated by the department and shall provide for
22 the alleged violator to present such evidence as may be proper.
23 Witnesses may be subpoenaed by either party and shall be allowed
24 fees at a rate prescribed by the rules and regulations of the
25 department. A full and complete record shall be kept of the
26 proceedings.

27 (5) Following the hearing, the ~~director~~ department shall

1 determine whether the charges are true or not, and if true, the
2 ~~director~~ department may (a) issue a declaratory order finding the
3 charges to be true, (b) revoke, suspend, modify, condition, or
4 limit the license, (c) impose a civil penalty in an amount not to
5 exceed ten thousand dollars for each violation, or (d) enter an
6 appropriate order. If any violation is a continuing one, each day
7 of such violation shall constitute a separate violation for the
8 purpose of computing the applicable civil penalty and the amount
9 of the penalty shall be based on the severity of the violation. A
10 copy of such decision setting forth the finding of facts and the
11 particular reasons upon which it is based shall be sent by either
12 certified or registered mail to the alleged violator. The decision
13 may be appealed, and the appeal shall be in accordance with the
14 Administrative Procedure Act.

15 (6) Any civil penalty assessed and unpaid under
16 subsection (5) of this section shall constitute a debt to the
17 State of Nebraska which may be collected in the manner of a lien
18 foreclosure or sued for and recovered in any proper form of action
19 in the name of the State of Nebraska in the district court of
20 the county in which the violator resides or owns property. The
21 department shall, within thirty days from receipt, ~~transmit~~ remit
22 any collected civil penalty to the State Treasurer for ~~deposit in~~
23 ~~the permanent school fund.~~ distribution in accordance with Article
24 VII, section 5, of the Constitution of Nebraska.

25 Sec. 548. Section 71-3524, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 71-3524 For purposes of sections 71-3523 to 71-3528:

1 (1) Department means the Department of Health and Human
2 Services; ~~Regulation and Licensure;~~

3 (2) High-level radioactive waste has the definition found
4 in section 81-1589; and

5 (3) Transuranic waste means radioactive waste material
6 containing alpha-emitting radioactive elements, with radioactive
7 half-lives greater than five years, having an atomic number greater
8 than 92 in concentrations in excess of one hundred nanocuries per
9 gram.

10 Sec. 549. Section 71-3526, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-3526 The Radiation Transportation Emergency Response
13 Cash Fund is created. The fund shall consist of fees credited
14 pursuant to section 71-3525. The fund shall be used for the
15 purposes stated in such section. The Director-State Engineer,
16 the Superintendent of Law Enforcement and Public Safety, the
17 ~~Director of Regulation and Licensure,~~ chief executive officer of
18 the department, the Adjutant General as director of the Nebraska
19 Emergency Management Agency, and the executive director of the
20 Public Service Commission, or their designees, shall meet at least
21 annually to recommend changes in the fees charged and allocation
22 of the fees collected among participating agencies based upon
23 their respective costs in carrying out such section. Any money in
24 the fund available for investment shall be invested by the state
25 investment officer pursuant to the Nebraska Capital Expansion Act
26 and the Nebraska State Funds Investment Act.

27 Sec. 550. Section 71-3601, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 71-3601 For purposes of the Tuberculosis Detection and
3 Prevention Act:

4 (1) Communicable tuberculosis means tuberculosis
5 manifested by a laboratory report of sputum or other body fluid
6 or excretion found to contain tubercle bacilli or by chest X-ray
7 findings interpreted as active tuberculosis by competent medical
8 authority;

9 (2) Department means the Department of Health and Human
10 Services; ~~Regulation and Licensure;~~

11 (3) Facility means a structure in which suitable
12 isolation for tuberculosis can be given and which is approved
13 by the department for the detention of recalcitrant tuberculosis
14 persons;

15 (4) Local health officer means (a) the health director of
16 a local public health department as defined in section 71-1626 or
17 (b) the medical advisor to the board of health of a county, city,
18 or village;

19 (5) Recalcitrant tuberculous person means a person
20 affected with tuberculosis in an active stage who by his or her
21 conduct or mode of living endangers the health and well-being of
22 other persons, by exposing them to tuberculosis, and who refuses
23 to accept adequate treatment; and

24 (6) State health officer means ~~the Director of Regulation~~
25 ~~and Licensure~~ ~~or~~ the chief medical officer as described in section
26 ~~81-3201. 6 of this act.~~

27 Sec. 551. Section 71-3610, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 71-3610 The expenses incurred in the care, maintenance,
3 and treatment of patients committed under the Tuberculosis
4 Detection and Prevention Act shall be paid from state funds
5 appropriated to the ~~Department of Health and Human Services Finance~~
6 ~~and Support~~ department for the purpose of entering into agreements
7 with qualified health care facilities so as to provide for the
8 care, maintenance, and treatment of such patients and those other
9 persons having communicable tuberculosis who voluntarily agree to
10 and accept care and treatment.

11 Sec. 552. Section 71-3702, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-3702 For purposes of sections 71-3702 to 71-3715,
14 unless the context otherwise requires:

15 (1) Board ~~shall mean~~ means the Board of Registration for
16 Environmental Health Specialists;

17 (2) Environmental health specialist ~~shall mean~~ means a
18 person who by education and experience in the physical, biological,
19 and sanitary sciences is qualified to carry out educational,
20 investigational, and technical duties in the field of environmental
21 sanitation;

22 (3) Registered environmental health specialist ~~shall mean~~
23 means a person who has the educational requirements and has had
24 experience in the field of environmental sanitation required by
25 section 71-3703 and is registered in accordance with sections
26 71-3702 to 71-3715;

27 (4) Trainee ~~shall mean~~ means a person who is qualified by

1 education but does not have at least one full year of experience
2 in the field of environmental sanitation and is registered in
3 accordance with sections 71-3702 to 71-3715;

4 (5) Certificate of registration ~~shall mean~~ means a
5 document issued as evidence of registration and qualification
6 to practice as an environmental health specialist or trainee under
7 sections 71-3702 to 71-3715, bearing the designation Registered
8 Environmental Health Specialist or Trainee, and showing the name of
9 the person, date of issue, serial number, seal, and signatures of
10 the members of the board authorized to grant such certificates; and

11 (6) Department ~~shall mean~~ means the Department of Health
12 and Human Services. ~~Regulation and Licensure.~~

13 Sec. 553. Section 71-3706, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-3706 The Board of Registration for Environmental
16 Health Specialists shall consist of six members appointed by
17 the State Board of Health. One member shall be a layperson who
18 is at least the age of majority, who has been a resident of the
19 state for at least five years immediately preceding appointment,
20 and who is a representative of consumer viewpoints. Each of the
21 other members shall have been engaged in environmental health for
22 at least ten years, shall have had responsible charge of work for
23 at least five years at the time of his or her appointment, and
24 shall be a registered environmental health specialist. Each member
25 of the Board of Registration for Environmental Health Specialists
26 shall receive as compensation not more than twenty-five dollars
27 per day for each day actually spent in traveling to and from and

1 while attending sessions of the board and its committees, and each
2 member shall also receive the necessary expenses incident to the
3 performance of his or her duties as provided by sections 81-1174 to
4 81-1177 and subject to section 71-3708.01.

5 The ~~Department of Health and Human Services Regulation~~
6 ~~and Licensure~~ department shall adopt and promulgate rules and
7 regulations which establish definitions of conflicts of interest
8 for members of the board and which establish procedures in the case
9 such a conflict arises.

10 Sec. 554. Section 71-4302, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-4302 The Department of Health and Human Services
13 ~~Regulation and Licensure~~ shall prepare, adopt, and have printed
14 minimum sanitary and safety requirements in the form of regulations
15 for the design, construction, equipment, and operation of swimming
16 pools and bather preparation facilities. Such requirements shall
17 include, but not be limited to, provisions for waiver or variance
18 of design standards and the circumstances under which such waiver
19 or variance may be granted.

20 Sec. 555. Section 71-4303, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-4303 No swimming pool shall be constructed after
23 January 1, 1970, unless and until plans, specifications, and any
24 additional information relative to such pool as may be requested
25 by the Department of Health and Human Services ~~Regulation and~~
26 ~~Licensure~~ shall have been submitted to such department and after
27 review by such department found to comply with the minimum sanitary

1 and safety requirements provided in section 71-4302 and a permit
2 for the construction of the pool issued by such department.

3 Sec. 556. Section 71-4304, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-4304 After January 1, 1970, swimming pools shall have
6 equipment and shall be operated so as to comply with the minimum
7 sanitary and safety requirements provided in section 71-4302.
8 After such date no swimming pool shall operate until it has
9 received a permit from the Department of Health and Human Services.
10 ~~Regulation and Licensure.~~ Application for a permit to operate
11 shall be submitted on forms provided by such department. Swimming
12 pools constructed prior to January 1, 1970, which do not fully
13 comply with the minimum sanitary and safety requirements as regards
14 design and construction may be continued in use for such period
15 as the ~~Department of Health and Human Services Regulation and~~
16 ~~Licensure~~ department may authorize if the equipment and operation
17 of such swimming pool comply with the minimum sanitary and safety
18 requirements.

19 Sec. 557. Section 71-4305, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-4305 (1) The Department of Health and Human Services
22 ~~Regulation and Licensure~~ shall make at least one inspection every
23 year of each swimming pool to determine that such swimming pool
24 complies with the minimum sanitary and safety requirements.

25 (2) The owner and operator of any swimming pool shall
26 submit such operation and analytical records as may be requested
27 at any time by the department to determine the sanitary and safety

1 condition of the swimming pool.

2 (3) The department shall adopt and promulgate rules and
3 regulations which classify swimming pools on the basis of criteria
4 deemed appropriate by the department. The department shall charge
5 engineering firms, swimming pool owners, and other appropriate
6 parties fees established by rules and regulations for the review
7 of plans and specifications of a swimming pool, the issuance of
8 a license or permit, the inspection of a swimming pool, and any
9 other services rendered at a rate which defrays no more than
10 the actual cost of the services provided. All fees shall be paid
11 as a condition of annual renewal of licensure or of continuance
12 of licensure. All fees collected under this subsection shall be
13 remitted to the State Treasurer for credit to the ~~Department of~~
14 ~~Health and Human Services Regulation and Licensure~~ Health and Human
15 Services Cash Fund. The department shall not charge a municipal
16 corporation an inspection fee for an inspection of a swimming pool
17 owned by such municipal corporation.

18 (4) The department shall establish and collect fees for
19 certificates of competency for swimming pool operators as provided
20 in section 71-162.

21 Sec. 558. Section 71-4306, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-4306 Whenever any duly authorized representative of
24 the Department of Health and Human Services ~~Regulation and~~
25 ~~Licensure~~ shall find that a swimming pool is being constructed,
26 equipped, or operated in violation of any of the provisions of
27 sections 71-4301 to 71-4307, the department may grant such time

1 as in its opinion may reasonably be necessary for changing the
2 construction or providing for the proper operation of the swimming
3 pool to meet the provisions of sections 71-4301 to 71-4307. If
4 and when the duly authorized representative of the department upon
5 inspection and investigation of a swimming pool considers that the
6 conditions are such as to warrant prompt closing of such swimming
7 pool until the provisions of sections 71-4301 to 71-4307 are
8 complied with, he or she shall notify the owner or operator of the
9 swimming pool to prohibit any person from using the swimming pool
10 and upon such notification to the sheriff and the county attorney
11 of the county in which such pool is located, it shall be the
12 duty of such county attorney and sheriff to see that the notice
13 of the representative of the department shall be enforced. If and
14 when the owner or operator of the pool has, in the opinion of the
15 department, met the provisions of sections 71-4301 to 71-4307, the
16 department may in writing authorize the use again of such swimming
17 pool.

18 Sec. 559. Section 71-4401, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-4401 For purposes of sections 71-4401 to 71-4412,
21 unless the context otherwise requires:

22 (1) Domestic animal shall mean any dog or cat, and cat
23 shall mean a cat which is a household pet;

24 (2) Vaccination against rabies shall mean the inoculation
25 of a domestic animal with a rabies vaccine as approved by the
26 rules and regulations adopted and promulgated by the ~~Department~~
27 ~~of Health and Human Services Regulation and Licensure~~, department.

1 Such vaccination shall be performed by a veterinarian duly licensed
2 to practice veterinary medicine in the State of Nebraska;

3 (3) Compendium shall mean the compendium of animal rabies
4 vaccine as provided by the National Association of State Public
5 Health Veterinarians;

6 (4) Department shall mean the Department of Health and
7 Human Services; ~~Regulation and Licensure;~~

8 (5) Own, unless otherwise specified, shall mean to
9 possess, keep, harbor, or have control of, charge of, or custody of
10 a domestic animal. This term shall not apply to domestic animals
11 owned by other persons which are temporarily maintained on the
12 premises of a veterinarian or kennel operator for a period of not
13 more than thirty days;

14 (6) Owner shall mean any person possessing, keeping,
15 harboring, or having charge or control of any domestic animal or
16 permitting any domestic animal to habitually be or remain on or
17 be lodged or fed within such person's house, yard, or premises.
18 This term shall not apply to veterinarians or kennel operators
19 temporarily maintaining on their premises domestic animals owned by
20 other persons for a period of not more than thirty days; and

21 (7) Rabies control authority shall mean county, township,
22 city, or village health and law enforcement officials who shall
23 enforce sections 71-4401 to 71-4412 relating to the vaccination and
24 impoundment of domestic animals. Such public officials shall not
25 be responsible for any accident or disease of a domestic animal
26 resulting from the enforcement of such sections.

27 Sec. 560. Section 71-4621, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-4621 As used in the Uniform Standard Code for Mobile
3 Home Parks, unless the context otherwise requires:

4 (1) Mobile home ~~shall mean~~ means a movable or portable
5 dwelling constructed to be towed on its own chassis, connected to
6 utilities, and designed with or without a permanent foundation for
7 year-round living. It may consist of one or more units that can be
8 telescoped when towed and expanded later for additional capacity,
9 or of two or more units, separately towable but designed to be
10 joined into one integral unit. Mobile home includes ~~and shall~~
11 ~~include~~ a manufactured home as defined in section 71-4603;

12 (2) Mobile home lot ~~shall mean~~ means a designated portion
13 of a mobile home park designed for the accommodation of one mobile
14 home and its accessory buildings or structures for the exclusive
15 use of the occupants;

16 (3) Mobile home park ~~shall mean~~ means a parcel or
17 contiguous parcels of land which have been so designated and
18 improved that it contains two or more mobile home lots available
19 to the general public for the placement thereon of mobile homes
20 for occupancy. The term mobile home park shall not be construed
21 to include mobile homes, buildings, tents, or other structures
22 temporarily maintained by any individual, corporation, limited
23 liability company, company, or other entity on its own premises and
24 used exclusively to house its own labor force;

25 (4) Department ~~shall mean~~ means the Department of Health
26 and Human Services; ~~and Regulation and Licensure; and~~

27 (5) Person ~~shall mean~~ means any individual, firm,

1 partnership, limited liability company, corporation, company,
2 association, joint-stock company or association, political
3 subdivision, governmental agency, or other legal entity, and ~~shall~~
4 ~~include~~ includes any trustee, receiver, assignee, or other legal
5 representative thereof.

6 Sec. 561. Section 71-4624, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-4624 (1) The application for the first or initial
9 annual license shall be submitted with the requirements mentioned
10 in section 71-4623 accompanied by the appropriate fees. The
11 ~~Department of Health and Human Services Regulation and Licensure~~
12 department by regulation shall charge engineering firms, mobile
13 home park owners and operators, and other appropriate parties
14 fees established by regulation for the review of plans and
15 specifications of a mobile home park, the issuance of a license
16 or permit, the inspection of a mobile home park, and any other
17 services rendered at a rate which defrays no more than the actual
18 costs of the services provided. All fees shall be paid as a
19 condition of annual renewal of licensure or of continuance of
20 licensure.

21 (2) All fees collected by the department shall be
22 remitted to the State Treasurer for credit to the ~~Department~~
23 ~~of Health and Human Services Regulation and Licensure~~ Health and
24 Human Services Cash Fund. Money credited to the fund pursuant to
25 this section shall be used by the department for the purpose of
26 administering the Uniform Standard Code for Mobile Home Parks.

27 (3) When any application is received, the department

1 shall cause the mobile home park and appurtenances to be inspected
2 by representatives of the department. When such inspection has
3 been made and the department finds that all of the provisions of
4 the Uniform Standard Code for Mobile Home Parks and the rules,
5 regulations, and standards of the department have been met by the
6 applicant, the department shall issue an annual license. Inspection
7 by the department or its authorized representatives at any time of
8 a mobile home park shall be a condition of continued licensure.

9 Sec. 562. Section 71-4635, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-4635 The Department of Health and Human Services
12 ~~Regulation and Licensure~~ may request the State Fire Marshal to
13 inspect for fire safety any mobile home park for which a license
14 or renewal of a license is sought, pursuant to section 81-502. The
15 State Fire Marshal shall assess a fee for such inspection pursuant
16 to section 81-505.01 and payable by the licensee or applicant for a
17 license. The authority to make such investigations may be delegated
18 to qualified local fire prevention personnel pursuant to section
19 81-502.

20 Sec. 563. Section 71-4701, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-4701 As used in sections 71-4701 to 71-4719, unless
23 the context otherwise requires:

24 (1) Department shall mean the Department of Health and
25 Human Services; ~~Regulation and Licensure;~~

26 (2) License shall mean a license issued by the state
27 under such sections to hearing aid instrument dispensers and

1 fitters;

2 (3) Temporary license shall mean a license issued while
3 the applicant is in training to become a licensed hearing aid
4 instrument dispenser and fitter;

5 (4) Board shall mean the Board of Hearing Aid Instrument
6 Dispensers and Fitters;

7 (5) Hearing aid shall mean any wearable instrument or
8 device designed for or offered for the purpose of aiding or
9 compensating for impaired human hearing and any parts, attachments,
10 or accessories, including earmold, but excluding batteries and
11 cords. A hearing aid shall also be known as a hearing instrument;

12 (6) Practice of fitting hearing aids shall mean the
13 measurement of human hearing by means of an audiometer or by
14 other means approved by the board solely for the purpose of making
15 selections, adaptations, or sale of hearing aids. The term also
16 includes the making of impressions for earmolds. A dispenser, at
17 the request of a physician or a member of related professions, may
18 make audiograms for the professional's use in consultation with the
19 hard-of-hearing; and

20 (7) Sell, sale, or dispense shall mean any transfer of
21 title or of the right to use by lease, bailment, or any other
22 contract, excluding (a) wholesale transactions with distributors
23 or dispensers and (b) distribution of hearing aids by nonprofit
24 service organizations at no cost to the recipient for the hearing
25 aid.

26 Sec. 564. Section 71-4728.05, Revised Statutes Cumulative
27 Supplement, 2006, is amended to read:

1 71-4728.05 (1) The commission shall appoint the
2 Interpreter Review Board as required in section 20-156.

3 ~~(2) Until July 14, 2006, the board shall consist of the~~
4 ~~following members, of whom the majority shall have knowledge of~~
5 ~~sign language;~~

6 ~~(a) The Director of Health and Human Services or his or~~
7 ~~her designee;~~

8 ~~(b) The executive director of the commission or his or~~
9 ~~her designee;~~

10 ~~(c) Two deaf or hard of hearing persons;~~

11 ~~(d) Two licensed interpreters; and~~

12 ~~(e) Two members representing local government.~~

13 ~~(3) (2) Members of the Interpreter Review Board serving~~
14 ~~on July 14, 2006, shall have their terms extended to June 30, 2007.~~
15 ~~After that date, membership on the board shall be as follows:~~

16 (a) The Director of Health and Human Services or his or
17 her designee A representative of the Department of Health and Human
18 Services and the executive director of the commission or his or
19 her designee, both of whom shall serve continuously and without
20 limitation;

21 (b) One qualified interpreter, appointed for a term to
22 expire on June 30, 2008;

23 (c) One representative of local government, appointed for
24 a term to expire on June 30, 2008;

25 (d) One deaf or hard of hearing person, appointed for a
26 term to expire on June 30, 2009;

27 (e) One qualified interpreter, appointed for a term to

1 expire on June 30, 2009;

2 (f) One deaf or hard of hearing person, appointed for a
3 term to expire on June 30, 2010; and

4 (g) One representative of local government, appointed for
5 a term to expire on June 30, 2010.

6 ~~(4)~~ (3) Upon the expiration of the terms described in
7 subsection ~~(3)~~ (2) of this section, members other than those
8 identified in subdivision ~~(3)(a)~~ (2)(a) of this section shall be
9 appointed for terms of three years. No such member may serve more
10 than two consecutive three-year terms beginning June 30, 2007,
11 except that members whose terms have expired shall continue to
12 serve until their successors have been appointed and qualified.

13 ~~(5)~~ (4) The commission may remove a member of the board
14 for inefficiency, neglect of duty, or misconduct in office after
15 delivering to such member a copy of the charges and a public
16 hearing in accordance with the Administrative Procedure Act. If a
17 vacancy occurs on the board, the commission shall appoint another
18 member with the same qualifications as the vacating member to
19 serve the remainder of the term. The members of the board shall
20 receive no compensation but shall be reimbursed for their actual
21 and necessary expenses, as provided in sections 81-1174 to 81-1177,
22 in attending meetings of the commission and in carrying out their
23 official duties as provided in this section and section 20-156.

24 ~~(6)~~ (5) The board shall establish policies, standards,
25 and procedures for evaluating and licensing interpreters,
26 including, but not limited to, testing, training, issuance,
27 renewal, and denial of licenses, continuing education and

1 continuing competency assessment, investigation of complaints, and
2 disciplinary actions against a license pursuant to section 20-156.

3 Sec. 565. Section 71-4737, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 71-4737 The Legislature recognizes that it is necessary
6 to track newborns and infants identified with a potential hearing
7 loss or who have been evaluated and have been found to have a
8 hearing loss for a period of time in order to render appropriate
9 followup care. The Department of Health and Human Services
10 ~~Regulation and Licensure~~ shall determine and implement the most
11 appropriate system for this state which is available to track
12 newborns and infants identified with a hearing loss. It is
13 the intent of the Legislature that the tracking system provide
14 the department and Legislature with the information necessary
15 to effectively plan and establish a comprehensive system of
16 developmentally appropriate services for newborns and infants who
17 have a potential hearing loss or who have been found to have
18 a hearing loss and shall reduce the likelihood of associated
19 disabling conditions for such newborns and infants.

20 Sec. 566. Section 71-4738, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-4738 The Department of Health and Human Services
23 ~~Regulation and Licensure~~ shall apply for all available federal
24 funding to implement the Infant Hearing Act.

25 Sec. 567. Section 71-4739, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 71-4739 (1) Every birthing facility shall annually report

1 to the Department of Health and Human Services ~~Regulation and~~
2 ~~Licensure~~ the number of:

3 (a) Newborns born;

4 (b) Newborns and infants recommended for a hearing
5 screening test;

6 (c) Newborns who received a hearing screening test during
7 birth admission;

8 (d) Newborns who passed a hearing screening test during
9 birth admission if administered;

10 (e) Newborns who did not pass a hearing screening test
11 during birth admission if administered; and

12 (f) Newborns recommended for monitoring, intervention,
13 and followup care.

14 (2) Every confirmatory testing facility shall annually
15 report to the Department of Health and Human Services ~~Regulation~~
16 ~~and Licensure~~ the number of:

17 (a) Newborns and infants who return for a followup
18 hearing test;

19 (b) Newborns and infants who do not have a hearing loss
20 based upon the followup hearing test; and

21 (c) Newborns and infants who are shown to have a hearing
22 loss based upon the followup hearing test.

23 Sec. 568. Section 71-4740, Revised Statutes Cumulative
24 Supplement, 2006, is amended to read:

25 71-4740 (1) Every birthing facility shall educate the
26 parents of newborns born in such facilities of the importance
27 of receiving a hearing screening test and any necessary followup

1 care. This educational information shall explain, in lay terms,
2 the hearing screening test, the likelihood of the newborn having
3 a hearing loss, followup procedures, and community resources,
4 including referral for early intervention services under the
5 Early Intervention Act. The educational information shall also
6 include a description of the normal auditory, speech, and
7 language developmental process in children. Education shall not be
8 considered a substitute for the hearing screening test.

9 (2) If a newborn is not born in a birthing facility, the
10 Department of Health and Human Services ~~Regulation and Licensure~~
11 shall educate the parents of such newborns of the importance of
12 receiving a hearing screening test and any necessary ~~followup~~
13 follow-up care. The department shall also give parents information
14 to assist them in having the test performed within three months
15 after the date of the child's birth.

16 Sec. 569. Section 71-4741, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-4741 (1) The Department of Health and Human Services
19 ~~Regulation and Licensure~~ shall determine which birthing facilities
20 are administering hearing screening tests to newborns and infants
21 on a voluntary basis and the number of newborns and infants
22 screened. The department shall annually report to the Legislature
23 the number of:

24 (a) Birthing facilities administering voluntary hearing
25 screening tests during birth admission;

26 (b) Newborns screened as compared to the total number of
27 newborns born in such facilities;

1 (c) Newborns who passed a hearing screening test during
2 birth admission if administered;

3 (d) Newborns who did not pass a hearing screening test
4 during birth admission if administered; and

5 (e) Newborns recommended for ~~followup~~ follow-up care.

6 (2) The ~~department,~~ Department of Health and Human
7 Services, in consultation with the State Department of Education,
8 birthing facilities, and other providers, shall develop approved
9 screening methods and protocol for statewide hearing screening
10 tests of substantially all newborns and infants.

11 (3) Subject to available appropriations, the Department
12 of Health and Human Services ~~Regulation and Licensure~~ shall make
13 the report described in this section available.

14 Sec. 570. Section 71-4742, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-4742 (1) Each birthing facility shall include a
17 hearing screening test as part of its standard of care for newborns
18 and shall establish a mechanism for compliance review. A hearing
19 screening test shall be conducted on no fewer than ninety-five
20 percent of the newborns born in this state.

21 (2) If the number of newborns receiving a hearing
22 screening test does not equal or exceed ninety-five percent of
23 the total number of newborns born in this state on or before
24 December 1, 2003, or falls below ninety-five percent at any time
25 thereafter, the Department of Health and Human Services ~~Regulation~~
26 ~~and Licensure~~ shall immediately adopt and promulgate rules and
27 regulations implementing a hearing screening program. The hearing

1 screening program shall provide for a hearing screening test that
2 every newborn born in this state shall undergo and shall provide
3 that the hearing screening test be completed during birth admission
4 or, if that is not possible, no later than three months after
5 birth. Notwithstanding this section, it is the goal of this state
6 to achieve a one-hundred-percent screening rate.

7 Sec. 571. Section 71-4743, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-4743 The Department of Health and Human Services
10 ~~Regulation and Licensure~~ and the State Department of Education
11 shall establish guidelines for when a referral shall be made for
12 early intervention services under the Early Intervention Act. The
13 guidelines shall include a request for an individual evaluation of
14 a child suspected of being deaf or hard of hearing as defined in
15 section 79-1118.01.

16 Sec. 572. Section 71-4744, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-4744 The Department of Health and Human Services
19 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
20 regulations necessary to implement the Infant Hearing Act.

21 Sec. 573. Section 71-4813, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-4813 When an autopsy is performed by the physician
24 authorized by the county coroner to perform such autopsy, the
25 physician or an appropriately qualified designee with training
26 in ophthalmologic techniques, as provided for in subsection (2)
27 of section 71-4807, may remove eye tissue of the decedent for

1 the purpose of transplantation. The physician may also remove
2 the pituitary gland for the purpose of research and treatment of
3 hypopituitary dwarfism and of other growth disorders. Removal of
4 the eye tissue or the pituitary gland shall only take place if the:

5 (1) Autopsy was authorized by the county coroner;
6 (2) County coroner receives permission from the person
7 having control of the disposition of the decedent's remains
8 pursuant to section 71-1339; and

9 (3) Removal of eye tissue or of the pituitary gland will
10 not interfere with the course of any subsequent investigation or
11 alter the decedent's post mortem facial appearance.

12 The removed eye tissue or pituitary gland shall be
13 transported to the Director of Regulation and Licensure Department
14 of Health and Human Services or any desired institution or health
15 facility as prescribed by section 71-1341.

16 Sec. 574. Section 71-4816, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-4816 (1) ~~On or after July 1, 1989,~~ the The physician
19 responsible for the completion and signing of the portion of the
20 certificate of death entitled medical certificate of death or, if
21 there is no such physician, the person responsible for signing the
22 certificate of death shall attest on the death certificate whether
23 organ or tissue donation was considered and whether consent was
24 granted.

25 (2) ~~After July 1, 1988,~~ the The Department of Health
26 and Human Services ~~Regulation and Licensure~~ shall make available
27 the number of organ and tissue donors in Nebraska for statistical

1 purposes.

2 Sec. 575. Section 71-4819, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-4819 (1) The ~~Director~~ Department of Health and Human
5 Services shall educate residents of the state about:

6 (a) The need for bone marrow donors;

7 (b) The procedures required to become registered as
8 a potential bone marrow donor, including the procedures for
9 determining tissue type; and

10 (c) The medical procedures a donor must undergo to donate
11 bone marrow and the attendant risks of the procedures.

12 (2) The ~~director~~ department shall make special efforts
13 to educate and recruit persons of racial and ethnic minorities to
14 volunteer as potential bone marrow donors.

15 (3) The ~~director~~ department may use the press, radio,
16 and television and may place educational materials in appropriate
17 health care facilities, blood banks, and state and local agencies.
18 The ~~Director of Health and Human Services,~~ department, in
19 conjunction with the Director of Motor Vehicles, shall make
20 educational materials available at all places where motor vehicle
21 operators' licenses are issued or renewed.

22 Sec. 576. Section 71-5175, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-5175 For purposes of the Emergency Medical Services
25 Act:

26 (1) Ambulance means any privately or publicly owned motor
27 vehicle or aircraft that is especially designed, constructed or

1 modified, and equipped and is intended to be used and is maintained
2 or operated for the overland or air transportation of patients
3 upon the streets, roads, highways, airspace, or public ways in this
4 state, including funeral coaches or hearses, or any other motor
5 vehicles or aircraft used for such purposes;

6 (2) Board means the Board of Emergency Medical Services;

7 (3) Department means the Department of Health and Human
8 Services; ~~Regulation and Licensure;~~

9 (4) Emergency medical service means the organization
10 responding to a perceived individual need for immediate medical
11 care in order to prevent loss of life or aggravation of
12 physiological or psychological illness or injury;

13 (5) Out-of-hospital emergency care provider includes
14 all certification classifications of emergency care providers
15 established pursuant to the act;

16 (6) Patient means an individual who either identifies
17 himself or herself as being in need of medical attention or upon
18 assessment by an out-of-hospital emergency care provider has an
19 injury or illness requiring treatment;

20 (7) Person means an individual, firm, partnership,
21 limited liability company, corporation, company, association, or
22 joint-stock company or association or group of individuals acting
23 together for a common purpose and includes the State of Nebraska
24 and any agency or political subdivision of the state;

25 (8) Physician medical director means a qualified
26 physician who is responsible for the medical supervision of
27 out-of-hospital emergency care providers and verification of skill

1 proficiency of out-of-hospital emergency care providers pursuant
2 to section 71-5178;

3 (9) Protocol means a set of written policies,
4 procedures, and directions from a physician medical director to
5 an out-of-hospital emergency care provider concerning the medical
6 procedures to be performed in specific situations;

7 (10) Qualified physician means an individual who is
8 licensed to practice medicine and surgery pursuant to sections
9 71-1,102 to 71-1,107.14 or osteopathic medicine and surgery
10 pursuant to sections 71-1,137 to 71-1,141 and meets any other
11 requirements established by rule and regulation;

12 (11) Qualified physician surrogate means a qualified,
13 trained medical person designated by a qualified physician in
14 writing to act as an agent for the physician in directing
15 the actions or recertification of out-of-hospital emergency care
16 providers; and

17 (12) Standing order means a direct order from the
18 physician medical director to perform certain tasks for a patient
19 under a specific set of circumstances.

20 Sec. 577. Section 71-5192, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-5192 An out-of-hospital emergency care provider or
23 emergency medical service holding a valid certificate or license
24 issued by the ~~department~~ State of Nebraska prior to July 1,
25 1998, may perform any practice or procedure authorized for a
26 holder of that type of certificate or license in accordance with
27 rules and regulations in effect immediately prior to July 1,

1 1998, and until the rules and regulations are amended or repealed
2 pursuant to the Emergency Medical Services Act. A certificate or
3 license may be issued or renewed and will expire in accordance
4 with the rules and regulations adopted pursuant to the Emergency
5 Medical Technician-Paramedic Act, the First Responders Emergency
6 Rescue Act, and sections 71-5101 to 71-5165 until those rules
7 and regulations are amended or repealed pursuant to the Emergency
8 Medical Services Act.

9 Sec. 578. Section 71-5197, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-5197 The department may accept from any person, in
12 the name of and for the state, services, equipment, supplies,
13 materials, or funds by way of bequest, gift, or grant for the
14 purposes of promoting emergency medical care. Any such funds
15 received shall be remitted to the state treasury and shall be
16 credited by the State Treasurer to the ~~Department of Health and~~
17 ~~Human Services Regulation and Licensure~~ Health and Human Services
18 Cash Fund.

19 Sec. 579. Section 71-51,102, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-51,102 (1) For purposes of this section:

22 (a) Automated external defibrillator means a device that:

23 (i) Is capable of recognizing the presence or absence
24 of ventricular fibrillation or rapid ventricular tachycardia and
25 is capable of determining, without intervention of an operator,
26 whether defibrillation should be performed; and

27 (ii) Automatically charges and requests delivery of an

1 electrical impulse to an individual's heart when it has identified
2 a condition for which defibrillation should be performed;

3 (b) Emergency medical service means an emergency medical
4 service as defined in section 71-5175;

5 (c) Health care facility means a health care facility as
6 defined in section 71-413;

7 (d) Health care practitioner facility means a health care
8 practitioner facility as defined in section 71-414; and

9 (e) Health care professional means any person who is
10 licensed, certified, or registered by the Department of Health
11 and Human Services ~~Regulation and Licensure~~ and who is authorized
12 within his or her scope of practice to use an automated external
13 defibrillator.

14 (2) Except for the action or omission of a health
15 care professional acting in such capacity or in a health care
16 facility, no person who delivers emergency care or treatment
17 using an automated external defibrillator shall be liable in any
18 civil action to respond in damages as a result of his or her
19 acts of commission or omission arising out of and in the course
20 of rendering such care or treatment in good faith. Nothing in
21 this subsection shall be construed to (a) grant immunity for
22 any willful, wanton, or grossly negligent acts of commission or
23 omission or (b) limit the immunity provisions for certain health
24 care professionals as provided in section 71-5194.

25 (3) A person acquiring an automated external
26 defibrillator shall notify the local emergency medical service
27 of the existence, location, and type of the defibrillator and

1 of any change in the location of such defibrillator unless the
2 defibrillator was acquired for use in a private residence, a health
3 care facility, or a health care practitioner facility.

4 Sec. 580. Section 71-51,103, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-51,103 There is hereby created the Nebraska Emergency
7 Medical System Operations Fund. The fund may receive gifts,
8 bequests, grants, fees, or other contributions or donations from
9 public or private entities. The fund shall be used to carry
10 out the purposes of the Statewide Trauma System Act and the
11 Emergency Medical Services Act, including activities related to the
12 design, maintenance, or enhancement of the statewide trauma system,
13 support of emergency medical services programs, and support for the
14 emergency medical services programs for children. The ~~Director of~~
15 Regulation and Licensure Department of Health and Human Services
16 shall annually, on or before January 1, submit a report to the
17 Legislature which includes a general accounting of the income
18 and expenditures of the fund. Any money in the fund available
19 for investment shall be invested by the state investment officer
20 pursuant to the Nebraska Capital Expansion Act and the Nebraska
21 State Funds Investment Act.

22 Sec. 581. Section 71-5205, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-5205 The family practice residency program may be
25 funded in part by grants provided by the Department of Health and
26 Human Services ~~Finance and Support or other~~ or agencies of the
27 federal government. If such grants are provided, the Legislature

1 shall not provide funding for such program.

2 Sec. 582. Section 71-5301, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 71-5301 For purposes of the Nebraska Safe Drinking Water
5 Act, unless the context otherwise requires:

6 (1) Council means the Advisory Council on Public Water
7 Supply;

8 (2) Department means the Division of Public Health of the
9 Department of Health and Human Services;

10 ~~(2)~~ (3) Director means the Director of Regulation and
11 Licensure Public Health of the Division of Public Health or his or
12 her authorized representative;

13 ~~(3)~~ (4) Designated agent means any political subdivision
14 or corporate entity having the demonstrated capability and
15 authority to carry out in whole or in part the Nebraska Safe
16 Drinking Water Act and with which the Director of Regulation and
17 Licensure director has consummated a legal and binding contract
18 covering specifically delegated responsibilities;

19 ~~(4)~~ (5) Major construction, extension, or alteration
20 means those structural changes that affect the source of supply,
21 treatment processes, or transmission of water to service areas but
22 does not include the extension of service mains within established
23 service areas;

24 ~~(5)~~ (6) Operator means the individual or individuals
25 responsible for the continued performance of the water supply
26 system or any part of such system during assigned duty hours;

27 ~~(6)~~ (7) Owner means any person owning or operating a

1 public water system;

2 ~~(7)~~ (8) Person means any individual, firm, partnership,
3 limited liability company, association, company, corporation,
4 political subdivision, or other entity;

5 ~~(8)~~ (9) Water supply system means all sources of water
6 and their surroundings under the control of one owner and includes
7 all structures, conduits, and appurtenances by means of which such
8 water is collected, treated, stored, or delivered except service
9 pipes between street mains and buildings and the plumbing within or
10 in connection with the buildings served;

11 ~~(9)(a)~~ (10)(a) Public water system means a system for
12 providing the public with water for human consumption through pipes
13 or, after August 5, 1998, other constructed conveyances, if such
14 system has at least fifteen service connections or regularly serves
15 an average of at least twenty-five individuals daily at least sixty
16 days per year. Public water system includes (i) any collection,
17 treatment, storage, and distribution facilities under control of
18 the operator of such system and used primarily in connection
19 with such system and (ii) any collection or pretreatment storage
20 facilities not under such control which are used primarily in
21 connection with such system. Public water system does not include
22 a special irrigation district. A public water system is either a
23 community water system or a noncommunity water system.

24 (b) Service connection does not include a connection to
25 a system that delivers water by a constructed conveyance other
26 than a pipe if (i) the water is used exclusively for purposes
27 other than residential uses, consisting of drinking, bathing,

1 cooking, and other similar uses, (ii) the department determines
2 that alternative water to achieve the equivalent level of public
3 health protection provided by the Nebraska Safe Drinking Water Act
4 and rules and regulations under the act is provided for residential
5 or similar uses for drinking and cooking, or (iii) the department
6 determines that the water provided for residential or similar uses
7 for drinking, cooking, and bathing is centrally treated or treated
8 at the point of entry by the provider, a pass-through entity, or
9 the user to achieve the equivalent level of protection provided by
10 the Nebraska Safe Drinking Water Act and the rules and regulations
11 under the act.

12 (c) Special irrigation district means an irrigation
13 district in existence prior to May 18, 1994, that provides
14 primarily agricultural service through a piped water system with
15 only incidental residential or similar use if the system or the
16 residential or similar users of the system comply with exclusion
17 provisions of subdivision (b)(ii) or (iii) of this subdivision;

18 ~~(10)~~ (11) Drinking water standards means rules and
19 regulations adopted and promulgated pursuant to section 71-5302
20 which (a) establish maximum levels for harmful materials which, in
21 the judgment of the ~~Director of Regulation and Licensure~~, director,
22 may have an adverse effect on the health of persons and (b) apply
23 only to public water systems;

24 ~~(11)~~ (12) Lead free (a) when used with respect to solders
25 and flux means solders and flux containing not more than two-tenths
26 percent lead, (b) when used with respect to pipes and pipe fittings
27 means pipes and pipe fittings containing not more than eight

1 percent lead, and (c) when used with respect to plumbing fittings
2 and fixtures intended by the manufacturer to dispense water for
3 human ingestion means fittings and fixtures that are in compliance
4 with standards established in accordance with 42 U.S.C. 300g-6(e)
5 as such section existed on July 16, 2004;

6 ~~(12)~~ (13) Community water system means a public water
7 system that (a) serves at least fifteen service connections used
8 by year-round residents of the area served by the system or (b)
9 regularly serves at least twenty-five year-round residents;

10 ~~(13)~~ (14) Noncommunity water system means a public water
11 system that is not a community water system;

12 ~~(14)~~ (15) Nontransient noncommunity water system means a
13 public water system that is not a community water system and that
14 regularly serves at least twenty-five of the same individuals over
15 six months per year;

16 ~~(15)~~ (16) Small system means a public water system that
17 regularly serves less than ten thousand individuals; and

18 ~~(16)~~ (17) Probation means a disciplinary action not to
19 exceed two years in length during which a certificate holder may
20 continue to operate under terms and conditions fixed by the order
21 of probation.

22 Sec. 583. Section 71-5302, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-5302 (1) ~~The Director of Regulation and Licensure~~
25 director shall adopt and promulgate necessary minimum drinking
26 water standards, in the form of rules and regulations, to insure
27 that drinking water supplied to consumers through all public

1 water systems shall not contain amounts of chemical, radiological,
2 physical, or bacteriological material determined by the ~~Director of~~
3 ~~Regulation and Licensure~~ director to be harmful to human health.

4 (2) The ~~Director of Regulation and Licensure~~ director
5 may adopt and promulgate rules and regulations to require the
6 monitoring of drinking water supplied to consumers through
7 public water systems for chemical, radiological, physical, or
8 bacteriological material determined by the ~~Director of Regulation~~
9 ~~and Licensure~~ director to be potentially harmful to human health.

10 (3) In determining what materials are harmful or
11 potentially harmful to human health and in setting maximum
12 levels for such harmful materials, the ~~Director of Regulation and~~
13 ~~Licensure~~ director shall be guided by:

14 (a) General knowledge of the medical profession and
15 related scientific fields as to materials and substances which are
16 harmful to humans if ingested through drinking water; and

17 (b) General knowledge of the medical profession and
18 related scientific fields as to the maximum amounts of such harmful
19 materials which may be ingested by human beings, over varying
20 lengths of time, without resultant adverse effects on health.

21 (4) Subject to section 71-5310, state drinking water
22 standards shall apply to each public water system in the state,
23 except that such standards shall not apply to a public water
24 system:

25 (a) Which consists only of distribution and storage
26 facilities and does not have any collection and treatment
27 facilities;

1 (b) Which obtains all of its water from, but is not
2 owned or operated by, a public water system to which such standards
3 apply;

4 (c) Which does not sell water to any person; and

5 (d) Which is not a carrier which conveys passengers in
6 interstate commerce.

7 (5) The ~~Director of Regulation and Licensure~~ director may
8 adopt alternative monitoring requirements for public water systems
9 in accordance with section 1418 of the federal Safe Drinking Water
10 Act, as such section existed on May 22, 2001.

11 (6) The ~~Director of Regulation and Licensure~~ director may
12 adopt a system for the ranking of safe drinking water projects
13 with known needs or for which loan applications have been received
14 by the ~~Department of Health and Human Services Regulation and~~
15 ~~Licensure~~ director or the Department of Environmental Quality. In
16 establishing the ranking system the ~~Director of Regulation and~~
17 ~~Licensure~~ director shall consider, among other things, the risk to
18 human health, compliance with the federal Safe Drinking Water Act,
19 as the act existed on May 22, 2001, and assistance to systems most
20 in need based upon affordability criteria adopted by the ~~Director~~
21 ~~of Regulation and Licensure.~~ director. This priority system shall
22 be reviewed annually by the ~~Director of Regulation and Licensure.~~
23 director.

24 Sec. 584. Section 71-5303, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-5303 (1) No person shall operate or maintain a public
27 water system without first obtaining a permit to operate such

1 system from the director. No fee shall be charged for the issuance
2 of such permit.

3 (2) The director shall inspect public water systems and
4 report findings to the owner, publish a list of those systems
5 not in compliance, and promote the training of and certify
6 the competence of operators. The director may deny, revoke,
7 suspend, or refuse renewal of a permit or certification, place
8 a certificate holder on probation, issue administrative orders
9 scheduling action to be taken, take emergency action as provided
10 in section 71-5304.01, and seek a temporary or permanent injunction
11 or such other legal process as is deemed necessary to obtain
12 compliance with the Nebraska Safe Drinking Water Act.

13 (3) ~~The Department of Health and Human Services~~
14 ~~Regulation and Licensure~~ department may deny, revoke, suspend, or
15 refuse to renew a permit or certification or place a certificate
16 holder on probation for noncompliance with the act, the rules and
17 regulations adopted and promulgated under the act, or the terms of
18 a variance or exemption issued pursuant to section 71-5310.

19 (4) Any person shall be granted, upon request, an
20 opportunity for a hearing before the department under the
21 Administrative Procedure Act prior to the denial or revocation of
22 a permit or certification or the placement of a certificate holder
23 on probation. The denial, revocation, or the placement on probation
24 by the department may be appealed, and the appeal shall be in
25 accordance with the Administrative Procedure Act.

26 Sec. 585. Section 71-5304.01, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 71-5304.01 (1) Whenever the ~~Director of Regulation and~~
2 ~~Licensure~~ director has reason to believe that a violation of any
3 provision of the Nebraska Safe Drinking Water Act, any rule or
4 regulation adopted and promulgated under such act, or any term
5 of a variance or exemption issued pursuant to section 71-5310
6 has occurred, he or she may cause an administrative order to be
7 served upon the permittee or permittees alleged to be in violation.
8 Such order shall specify the violation and the facts alleged to
9 constitute a violation and shall order that necessary corrective
10 action be taken within a reasonable time to be prescribed in such
11 order. Any such order shall become final unless the permittee
12 or permittees named in the order request in writing a hearing
13 before the ~~Director of Regulation and Licensure~~ director no later
14 than thirty days after the date such order is served. In lieu of
15 such order, the ~~Director of Regulation and Licensure~~ director may
16 require that the permittee or permittees appear before the ~~Director~~
17 ~~of Regulation and Licensure~~ director at a time and place specified
18 in the notice and answer the charges. The notice shall be served
19 on the permittee or permittees alleged to be in violation not less
20 than thirty days before the time set for the hearing.

21 (2) Whenever the ~~Director of Regulation and Licensure~~
22 director finds that an emergency exists requiring immediate action
23 to protect the public health and welfare concerning a material
24 which is determined by the ~~Director of Regulation and Licensure~~
25 director to be harmful or potentially harmful to human health,
26 the ~~Director of Regulation and Licensure~~ director may, without
27 notice or hearing, issue an order reciting the existence of such an

1 emergency and requiring that such action be taken as the ~~Director~~
2 ~~of Regulation and Licensure~~ director deems necessary to meet the
3 emergency. Such order shall be effective immediately. Any person
4 to whom such order is directed shall comply immediately and, on
5 written application to the ~~Director of Regulation and Licensure,~~
6 director, shall be afforded a hearing as soon as possible and
7 not later than ten days after receipt of such application by such
8 affected person. On the basis of such hearing, the ~~Director of~~
9 ~~Regulation and Licensure~~ director shall continue such order in
10 effect, revoke it, or modify it.

11 (3) The ~~Director of Regulation and Licensure~~ director
12 shall afford to the alleged violator an opportunity for a fair
13 hearing before the ~~Department of Health and Human Services~~
14 ~~Regulation and Licensure~~ director under the Administrative
15 Procedure Act.

16 (4) In addition to any other remedy provided by law, the
17 ~~Director of Regulation and Licensure~~ director may issue an order
18 assessing an administrative penalty upon a violator.

19 (5) The range of administrative penalties assessed under
20 this section for a public water system serving ten thousand or
21 more persons shall be not less than one thousand dollars per day
22 or part thereof for each violation, not to exceed twenty-five
23 thousand dollars in the aggregate. Administrative penalties for
24 a small system shall be not more than five hundred dollars
25 per day or part thereof for each violation, not to exceed
26 five thousand dollars in the aggregate. In determining the
27 amount of the administrative penalty, the department shall take

1 into consideration all relevant circumstances, including, but not
2 limited to, the harm or potential harm which the violation causes
3 or may cause, the violator's previous compliance record, the
4 nature and persistence of the violation, any corrective actions
5 taken, and any other factors which the department may reasonably
6 deem relevant. The administrative penalty assessment shall state
7 specific amounts to be paid for each violation identified in the
8 order.

9 (6) An administrative penalty shall be paid within sixty
10 days after the date of issuance of the order assessing the penalty.
11 Any person who fails to pay an administrative penalty by the
12 final due date shall be liable to the state for the penalty
13 amount plus any statutory interest rate applicable to judgments.
14 An order under this section imposing an administrative penalty may
15 be appealed to the ~~Director of Regulation and Licensure~~ director
16 in the manner provided for in subsection (1) of this section.
17 Any administrative penalty paid pursuant to this section shall be
18 remitted to the State Treasurer for ~~credit to the permanent school~~
19 ~~fund.~~ distribution in accordance with Article VII, section 5, of
20 the Constitution of Nebraska. An action may be brought in the
21 appropriate court to collect any unpaid administrative penalty and
22 for attorney's fees and costs incurred directly in the collection
23 of the penalty.

24 Sec. 586. Section 71-5304.02, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-5304.02 (1) The director may require a public water
27 system to give notice to the persons served by the system and

1 to the ~~Department of Health and Human Services Regulation and~~
2 ~~Licensure department~~ whenever the system:

3 (a) Is not in compliance with an applicable maximum
4 contaminant level or treatment technique requirement of or a
5 testing procedure prescribed by rules and regulations adopted and
6 promulgated under the Nebraska Safe Drinking Water Act;

7 (b) Fails to perform monitoring, testing, analyzing, or
8 sampling as required;

9 (c) Is subject to a variance or exemption; or

10 (d) Is not in compliance with the requirements prescribed
11 by a variance or exemption.

12 (2) The director may require a public water system to
13 give notice to the persons served by the public water system of
14 potential sources of contamination as identified by the director
15 under subsection (2) of section 71-5302, of possible health effects
16 of such contamination, and of possible mitigation measures.

17 (3) The director shall by rule and regulation prescribe
18 the form and manner for giving such notice.

19 Sec. 587. Section 71-5305.01, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-5305.01 All new community water systems and new
22 nontransient noncommunity water systems commencing operation after
23 October 1, 1999, shall demonstrate technical, managerial, and
24 financial capacity to operate under the Nebraska Safe Drinking
25 Water Act.

26 The ~~Director of Regulation and Licensure~~ director
27 may adopt and promulgate rules and regulations to determine

1 demonstration requirements for technical, managerial, and financial
2 capacity of community water systems and nontransient noncommunity
3 water systems.

4 Sec. 588. Section 71-5305.02, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-5305.02 The ~~Department of Health and Human Services~~
7 ~~Regulation and Licensure~~ department shall develop a capacity
8 development strategy to assist public water systems in acquiring
9 and maintaining technical, managerial, and financial capacity
10 pursuant to section 71-5305.01. The department shall consider
11 and solicit public comment on:

12 (1) The methods or criteria the department will use to
13 identify and prioritize the public water systems most in need of
14 improving technical, managerial, and financial capacity;

15 (2) A description of the institutional, regulatory,
16 financial, tax, or legal factors at the federal, state, or local
17 level that encourage or impair capacity development;

18 (3) A description of how the department will:

19 (a) Assist public water systems in complying with the
20 Nebraska Safe Drinking Water Act;

21 (b) Encourage the development of partnerships between
22 public water systems to enhance the technical, managerial, and
23 financial capacity of the systems; and

24 (c) Assist public water systems in the training and
25 certification of operators; and

26 (4) A description of how the department will establish a
27 baseline and measure improvements in capacity with respect to the

1 act.

2 Sec. 589. Section 71-5306, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-5306 (1) To carry out the provisions and purposes of
5 the Nebraska Safe Drinking Water Act, the director may:

6 (a) Enter into agreements, contracts, or cooperative
7 arrangements, under such terms as are deemed appropriate,
8 with other state, federal, or interstate agencies or with
9 municipalities, educational institutions, local health departments,
10 or other organizations, entities, or individuals;

11 (b) Require all laboratory analyses to be performed
12 at the Department of Health and Human Services Regulation and
13 ~~Licensure~~ Laboratory, or at any other certified laboratory which
14 has entered into an agreement with the ~~Department of Health and~~
15 ~~Human Services Regulation and Licensure~~ department therefor, and
16 establish and collect fees for making laboratory analyses of
17 water samples pursuant to sections 71-2619 to 71-2621, except that
18 subsection (6) of section 71-2619 shall not apply for purposes of
19 the Nebraska Safe Drinking Water Act. Inspection fees for making
20 other laboratory agreements shall be established and collected
21 pursuant to sections 71-2619 to 71-2621;

22 (c) Certify laboratories performing tests on water that
23 is intended for human consumption. The director may establish,
24 through rules and regulations, standards for certification.
25 Such standards may include requirements for staffing, equipment,
26 procedures, and methodology for conducting laboratory tests,
27 quality assurance and quality control procedures, and communication

1 of test results. Such standards shall be consistent with
2 requirements for performing laboratory tests established by
3 the federal Environmental Protection Agency to the extent such
4 requirements are consistent with state law. The director may accept
5 accreditation by a recognized independent accreditation body,
6 public agency, or federal program which has standards that are at
7 least as stringent as those established pursuant to this section.
8 The director may adopt and promulgate rules and regulations which
9 list accreditation bodies, public agencies, and federal programs
10 that may be accepted as evidence that a laboratory meets the
11 standards for certification. Inspection fees for certifying other
12 laboratories shall be established and collected to defray the cost
13 of the inspections;

14 (d) Receive financial and technical assistance from an
15 agency of the federal government or from any other public or
16 private agency;

17 (e) Enter the premises of a public water system at any
18 time for the purpose of conducting monitoring, making inspections,
19 or collecting water samples for analysis;

20 (f) Delegate those responsibilities and duties as deemed
21 appropriate for the purpose of administering the requirements of
22 the Nebraska Safe Drinking Water Act, including entering into
23 agreements with designated agents which shall perform specifically
24 delegated responsibilities and possess specifically delegated
25 powers;

26 (g) Require the owner and operator of a public water
27 system to establish and maintain records, make reports, and

1 provide information as the ~~Department of Health and Human Services~~
2 ~~Regulation and Licensure~~ department may reasonably require by
3 regulation to enable it to determine whether such owner or operator
4 has acted or is acting in compliance with the Nebraska Safe
5 Drinking Water Act and rules and regulations adopted pursuant
6 thereto. The department or its designated agent shall have access
7 at all times to such records and reports; and

8 (h) Assess by regulation a fee for any review of plans
9 and specifications pertaining to a public water system governed by
10 section 71-5305 in order to defray no more than the actual cost of
11 the services provided.

12 (2) All such fees collected by the ~~Department of Health~~
13 ~~and Human Services Regulation and Licensure~~ department shall be
14 remitted to the State Treasurer for credit to the Safe Drinking
15 Water Act Cash Fund, which is hereby created. Such fund shall
16 be used by the department for the purpose of administering the
17 Nebraska Safe Drinking Water Act. Any money in the fund available
18 for investment shall be invested by the state investment officer
19 pursuant to the Nebraska Capital Expansion Act and the Nebraska
20 State Funds Investment Act.

21 Sec. 590. Section 71-5310, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-5310 (1) The director, with the approval of the
24 council, may authorize variances or exemptions from the drinking
25 water standards issued pursuant to section 71-5302 under conditions
26 and in such manner as they deem necessary and desirable. Such
27 variances or exemptions shall be permitted under conditions and in

1 a manner which are not less stringent than the conditions under,
2 and the manner in which, variances and exemptions may be granted
3 under the federal Safe Drinking Water Act as the act existed on
4 July 20, 2002.

5 (2) Prior to granting a variance or an exemption,
6 the director shall provide notice, in a newspaper of general
7 circulation serving the area served by the public water system, of
8 the proposed exemption or variance and that interested persons may
9 request a public hearing on the proposed exemption or variance. The
10 director may require the system to provide other appropriate notice
11 ~~as he or she deems~~ necessary to provide adequate notice to persons
12 served by the system.

13 If a public hearing is requested, the director shall
14 set a time and place for the hearing and such hearing shall
15 be held before the ~~Department of Health and Human Services~~
16 ~~Regulation and Licensure~~ department prior to the variance or
17 exemption being issued. Frivolous and insubstantial requests for a
18 hearing may be denied by the director. An exemption or variance
19 shall be conditioned on monitoring, testing, analyzing, or other
20 requirements to insure the protection of the public health. A
21 variance or an exemption granted shall include a schedule of
22 compliance under which the public water system is required to meet
23 each contaminant level or treatment technique requirement for which
24 a variance or an exemption is granted within a reasonable time as
25 specified by the director with the approval of the council.

26 Sec. 591. Section 71-5310.01, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 71-5310.01 Except as otherwise expressly provided, any
2 notice, order, or other instrument issued by or under authority
3 of the director under the Nebraska Safe Drinking Water Act may
4 be served on any person affected by such notice, order, or other
5 instrument, personally or by publication, and proof of such service
6 may be made in like manner as in case of service of a summons
7 in a civil action, such proof to be filed in the office of the
8 ~~Department of Health and Human Services Regulation and Licensure,~~
9 department, or such service may be made by mailing a copy of the
10 notice, order, or other instrument by certified or registered mail
11 directed to the person affected at his or her last-known post
12 office address as shown by the files or records of the department,
13 and proof of service may be made by the affidavit of the person who
14 did the mailing and filed in the office of the department.

15 Every certificate or affidavit of service made and filed
16 as provided in this section shall be prima facie evidence of the
17 facts stated in such certificate or affidavit, and a certified copy
18 shall have like force and effect.

19 Sec. 592. Section 71-5311, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-5311 (1) There is hereby established the Advisory
22 Council on Public Water Supply which shall advise and assist the
23 department in administering the Nebraska Safe Drinking Water Act.

24 (2) The council shall be composed of seven members
25 appointed by the Governor, (a) one of whom shall be a professional
26 engineer, (b) one of whom shall be a licensed physician, (c) two
27 of whom shall be consumers of a public water system, (d) two of

1 whom shall be operators of a public water system who possess a
2 certificate of competency issued by the ~~Department of Health and~~
3 ~~Human Services Regulation and Licensure~~ department to operate a
4 public water system. One such operator shall represent a system
5 serving a population of five thousand or less, and one such
6 operator shall represent a system serving a population of more
7 than five thousand, and (e) one of whom shall be, at the time of
8 appointment, (i) an individual who owns a public water system, (ii)
9 a member of the governing board of a public or private corporation
10 which owns a public water system, or (iii) in the case of a
11 political subdivision which owns a public water system, a member
12 of the subdivision's governing board or board of public works
13 or similar board which oversees the operation of a public water
14 system.

15 Any owner or operator of a public water system serving
16 on the council on March 2, 1989, shall continue to serve until the
17 term of such member expires. As his or her term expires, such owner
18 or operator shall be replaced by a person qualified as prescribed
19 in subdivisions (d) and (e) of this subsection respectively.

20 (3) All members shall be appointed for three-year terms.
21 No member shall serve more than three consecutive three-year terms.
22 Each member shall hold office until the expiration of his or her
23 term or until a successor has been appointed. Any vacancy occurring
24 in council membership, other than by expiration of term, shall be
25 filled within sixty days by the Governor by appointment from the
26 appropriate category for the unexpired term.

27 (4) The council shall meet not less than once each year.

1 Special meetings of the council may be called by the director
2 or upon the written request of any two members of the council
3 explaining the reason for such meeting. The place of the meeting
4 shall be set by the director. Such officers as the council deems
5 necessary shall be elected every three years beginning with the
6 first meeting in the year 1990. A majority of the members of the
7 council shall constitute a quorum for the transaction of business.
8 Representatives of the department shall attend each meeting. Every
9 act of the majority of the members of the council shall be deemed
10 to be the act of the council.

11 (5) No member of the council shall receive any
12 compensation, but each member shall be entitled, while serving on
13 the business of the council, to receive his or her travel and other
14 necessary expenses while so serving away from his or her place of
15 residence as provided in sections 81-1174 to 81-1177.

16 Sec. 593. Section 71-5311.02, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-5311.02 The ~~Director of Regulation and Licensure~~
19 director shall make every effort to obtain voluntary compliance
20 through warning, conference, or any other appropriate means prior
21 to initiating enforcement proceedings, except that such requirement
22 shall not be construed to alter enforcement duties or requirements
23 of the ~~Director of Regulation and Licensure~~ director and the
24 department.

25 Sec. 594. Section 71-5318, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-5318 (1) The Drinking Water Facilities Loan Fund is

1 created. The fund shall be held as a trust fund for the purposes
2 and uses described in the Drinking Water State Revolving Fund Act.

3 The fund shall consist of federal capitalization grants,
4 state matching appropriations, proceeds of state match bond issues
5 credited to the fund, repayments of principal and interest on
6 loans, and other money designated for the fund. The director
7 may make loans from the fund pursuant to the Drinking Water
8 State Revolving Fund Act and may conduct activities related to
9 financial administration of the fund, administration or provision
10 of technical assistance through public water system source water
11 assessment programs, and implementation of a source water petition
12 program under the Safe Drinking Water Act. The state investment
13 officer shall invest any money in the fund available for investment
14 pursuant to the Nebraska Capital Expansion Act and the Nebraska
15 State Funds Investment Act, except that any bond proceeds in
16 the fund shall be invested in accordance with the terms of the
17 documents under which the bonds are issued. The state investment
18 officer may direct that the bond proceeds shall be deposited with
19 the bond trustee for investment. Investment earnings shall be
20 credited to the fund.

21 The department may create or direct the creation of
22 accounts within the fund as the department determines to be
23 appropriate and useful in administering the fund and in providing
24 for the security, investment, and repayment of bonds.

25 The fund and the assets thereof may be used, to the
26 extent permitted by the Safe Drinking Water Act and the regulations
27 adopted and promulgated pursuant to such act, to pay or to secure

1 the payment of bonds and the interest thereon, except that amounts
2 deposited into the fund from state appropriations and the earnings
3 on such appropriations may not be used to pay or to secure the
4 payment of bonds or the interest thereon.

5 (2) The Land Acquisition and Source Water Loan Fund is
6 created. The fund shall be held as a trust for the purposes and
7 uses described in the Drinking Water State Revolving Fund Act.

8 The fund shall consist of federal capitalization grants,
9 state matching appropriations, proceeds of state match bond issues
10 credited to the fund, repayments of principal and interest on
11 loans, and other money designated for the fund. The director may
12 make loans from the fund pursuant to the Drinking Water State
13 Revolving Fund Act and may, in consultation with the Director of
14 ~~Regulation and Licensure,~~ Public Health of the Division of Public
15 Health, conduct activities other than the making of loans permitted
16 under section 1452(k) of the Safe Drinking Water Act. The state
17 investment officer shall invest any money in the fund available for
18 investment pursuant to the Nebraska Capital Expansion Act and the
19 Nebraska State Funds Investment Act, except that any bond proceeds
20 in the fund shall be invested in accordance with the terms of the
21 documents under which the bonds are issued. The state investment
22 officer may direct that the bond proceeds shall be deposited with
23 the bond trustee for investment. Investment earnings shall be
24 credited to the fund.

25 The department may create or direct the creation of
26 accounts within the fund as the department determines to be
27 appropriate and useful in administering the fund and in providing

1 for security, investment, and repayment of bonds.

2 The fund and assets thereof may be used, to the extent
3 permitted by the Safe Drinking Water Act and the regulations
4 adopted and promulgated pursuant to such act, to pay or secure
5 the payment of bonds and the interest thereon, except that amounts
6 credited to the fund from state appropriations and the earnings on
7 such appropriations may not be used to pay or to secure the payment
8 of bonds or the interest thereon.

9 The director may transfer any money in the Land
10 Acquisition and Source Water Loan Fund to the Drinking Water
11 Facilities Loan Fund.

12 (3) There is hereby created the Drinking Water
13 Administration Fund. Any funds available for administering loans
14 or fees collected pursuant to the Drinking Water State Revolving
15 Fund Act shall be remitted to the State Treasurer for credit to
16 such fund. The fund shall be administered by the department for the
17 purposes of the act. The state investment officer shall invest any
18 money in the fund available for investment pursuant to the Nebraska
19 Capital Expansion Act and the Nebraska State Funds Investment Act.
20 Investment earnings shall be credited to the fund.

21 Sec. 595. Section 71-5322, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 71-5322 The department shall have the following powers
24 and duties:

25 (1) The power to establish a program to make loans
26 to owners of public water systems, individually or jointly, for
27 construction or modification of safe drinking water projects in

1 accordance with the Drinking Water State Revolving Fund Act and
2 the rules and regulations of the council adopted and promulgated
3 pursuant to such act;

4 (2) The power, if so authorized by the council pursuant
5 to section 71-5321, to execute and deliver documents obligating
6 the Drinking Water Facilities Loan Fund or the Land Acquisition
7 and Source Water Loan Fund and the assets thereof to the extent
8 permitted by section 71-5318 to repay, with interest, loans to
9 or credits into such funds and to execute and deliver documents
10 pledging to the extent permitted by section 71-5318 all or part of
11 such funds and assets to secure, directly or indirectly, the loans
12 or credits;

13 (3) The duty to prepare an annual report for the Governor
14 and the Legislature;

15 (4) The duty to establish fiscal controls and accounting
16 procedures sufficient to assure proper accounting during
17 appropriate accounting periods, including the following:

18 (a) Accounting from the Nebraska Investment Finance
19 Authority for the costs associated with the issuance of bonds
20 pursuant to the act;

21 (b) Accounting for payments or deposits received by the
22 funds;

23 (c) Accounting for disbursements made by the funds; and

24 (d) Balancing the funds at the beginning and end of the
25 accounting period;

26 (5) The duty to establish financial capability
27 requirements that assure sufficient revenue to operate and maintain

1 a facility for its useful life and to repay the loan for such
2 facility;

3 (6) The power to determine the rate of interest to be
4 charged on a loan in accordance with the rules and regulations
5 adopted and promulgated by the council;

6 (7) The power to develop an intended use plan, in
7 consultation with the Director of ~~Regulation and Licensure~~, Public
8 Health of the Division of Public Health, for adoption by the
9 council;

10 (8) The power to enter into required agreements with the
11 United States Environmental Protection Agency pursuant to the Safe
12 Drinking Water Act; and

13 (9) Such other powers as may be necessary and appropriate
14 for the exercise of the duties created under the Drinking Water
15 State Revolving Fund Act.

16 Sec. 596. Section 71-5402, Revised Statutes Cumulative
17 Supplement, 2006, is amended to read:

18 71-5402 For purposes of the Nebraska Drug Product
19 Selection Act, unless the context otherwise requires:

20 (1) Bioequivalent means drug products: (a) That are
21 legally marketed under regulations promulgated by the federal
22 Food and Drug Administration; (b) that are the same dosage form
23 of the identical active ingredients in the identical amounts
24 as the drug product prescribed; (c) that comply with compendial
25 standards and are consistent from lot to lot with respect to (i)
26 purity of ingredients, (ii) weight variation, (iii) uniformity of
27 content, and (iv) stability; and (d) for which the federal Food and

1 Drug Administration has established bioequivalent standards or has
2 determined that no bioequivalence problems exist;

3 (2) Board means the Board of Pharmacy;

4 (3) Brand name means the proprietary or trade name
5 selected by the manufacturer, distributor, or packager for a drug
6 product and placed upon the labeling of such product at the time
7 of packaging;

8 (4) Chemically equivalent means drug products that
9 contain amounts of the identical therapeutically active ingredients
10 in the identical strength, quantity, and dosage form and that meet
11 present compendial standards;

12 (5) Department means the Department of Health and Human
13 Services; ~~Regulation and Licensure;~~

14 (6) Drug product means any drug or device as defined in
15 section 71-1,142;

16 (7) Drug product select means to dispense, without the
17 practitioner's express authorization, an equivalent drug product in
18 place of the brand-name drug product contained in a medical order
19 of such practitioner;

20 (8) Equivalent means drug products that are both
21 chemically equivalent and bioequivalent;

22 (9) Generic name means the official title of a drug or
23 drug combination as determined by the United States Adopted Names
24 Council and accepted by the federal Food and Drug Administration of
25 those drug products having the same active chemical ingredients in
26 the same strength and quantity;

27 (10) Medical order has the definition found in section

1 71-1,142;

2 (11) Pharmacist means a pharmacist licensed under the
3 Uniform Licensing Law; and

4 (12) Practitioner has the definition found in section
5 71-1,142.

6 Sec. 597. Section 71-5647, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-5647 The Office of Rural Health is hereby created
9 within the Department of Health and Human Services. ~~Regulation and~~
10 ~~Licensure.~~ The office shall have the following powers and duties:

11 (1) To assist rural residents in obtaining high quality
12 health care which includes the following:

13 (a) Assist in the recruitment and retention of health
14 care professionals to rural areas, including specifically
15 physicians and nurses;

16 (b) Assist rural communities in maintaining the viability
17 of hospital services whenever feasible or, for communities in
18 transition, in developing alternative systems to provide equivalent
19 quality care to their residents;

20 (c) Assist rural communities in planning to meet changes
21 needed due to the changing rural economy and demographics or new
22 technology;

23 (d) Assist in the development of health care networks
24 or cooperative ventures among rural communities or health care
25 providers;

26 (e) Assist in promoting or developing demonstration
27 projects to identify and establish alternative health care systems;

1 and

2 (f) Assist rural communities in developing and
3 identifying leaders and leadership skills among their residents
4 to enable such communities to work toward appropriate and
5 cost-effective solutions to the health care issues that confront
6 them;

7 (2) To develop a comprehensive rural health policy to
8 serve as a guide for the development of programs of the department
9 aimed at improving health care in rural Nebraska and a rural health
10 action plan to guide implementation of the policy;

11 (3) To establish liaison with other state agency efforts
12 in the area of rural development and human services delivery
13 to ensure that the programs of the office are appropriately
14 coordinated with these efforts and to encourage use of the
15 comprehensive rural health policy by other agencies as a guide
16 to their plans and programs affecting rural health;

17 (4) To develop and maintain an appropriate data system to
18 identify present and potential rural health issues and to evaluate
19 the effectiveness of programs and demonstration projects;

20 (5) To encourage and facilitate increased public
21 awareness of issues affecting rural health care;

22 (6) To carry out its duties under the Rural Health
23 Systems and Professional Incentive Act;

24 (7) To carry out the duties required by section
25 71-5206.01; and

26 (8) To carry out related duties as directed by the
27 ~~Director of Regulation and Licensure, Department of Health and~~

1 Human Services.

2 Sec. 598. Section 71-5649, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 71-5649 The Legislature shall appropriate sufficient
5 funds to the Department of Health and Human Services ~~Regulation and~~
6 ~~Licensure~~ to enable the Office of Rural Health to carry out its
7 duties pursuant to section 71-5647.

8 Sec. 599. Section 71-5653, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-5653 For purposes of the Rural Health Systems and
11 Professional Incentive Act:

12 (1) Approved medical specialty means family practice,
13 general practice, general internal medicine, general pediatrics,
14 general surgery, obstetrics/gynecology, and psychiatry;

15 (2) Approved dental specialty means general practice,
16 pediatric dentistry, and oral surgery;

17 (3) Approved mental health practice program means an
18 approved educational program consisting of a master's or doctorate
19 degree with the focus being primarily therapeutic mental health and
20 meeting the educational requirements for licensure in mental health
21 practice or psychology by the department;

22 (4) Commission means the Nebraska Rural Health Advisory
23 Commission;

24 (5) Department means the Division of Public Health of the
25 Department of Health and Human Services; ~~Regulation and Licensure;~~

26 (6) Doctorate-level mental health student means a
27 graduate student enrolled in or accepted for enrollment in an

1 approved mental health practice program leading to a doctorate
2 degree and meeting the educational requirements for licensure in
3 psychology by the department;

4 (7) Full-time practice means a minimum of forty hours per
5 week;

6 (8) Health care means both somatic and mental health care
7 services;

8 (9) Master's level mental health student means a graduate
9 student enrolled in or accepted for enrollment in an approved
10 mental health practice program leading to a master's degree and
11 meeting the educational requirements for licensure in mental health
12 practice by the department;

13 (10) Office means the Office of Rural Health;

14 (11) Qualified educational debts means government and
15 commercial loans obtained by students for postsecondary education
16 tuition, other educational expenses, and reasonable living
17 expenses, as determined by the department, but does not include
18 loans received under the act or the Nebraska Medical Student
19 Assistance Act; and

20 (12) Rural means located within any county in Nebraska
21 having a population of less than fifteen thousand inhabitants and
22 not included within a metropolitan statistical area as defined by
23 the United States Department of Commerce, Bureau of the Census.

24 Sec. 600. Section 71-5654, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 71-5654 The Nebraska Rural Health Advisory Commission is
27 hereby created as the direct and only successor to the Commission

1 on Rural Health Manpower. The Nebraska Rural Health Advisory
2 Commission shall consist of thirteen members as follows:

3 (1) ~~The Director of Regulation and Licensure or his or~~
4 ~~her designee and the Director of Health and Human Services or his~~
5 ~~or her designee;~~ The Director of Public Health of the Division of
6 Public Health or his or her designee and another representative of
7 the Department of Health and Human Services; and

8 (2) Eleven members to be appointed by the Governor with
9 the advice and consent of the Legislature as follows:

10 (a) One representative of each medical school located in
11 the state involved in training family physicians and one physician
12 in family practice residency training; and

13 (b) From rural areas one physician, one consumer
14 representative, one hospital administrator, one nursing home
15 administrator, one nurse, one physician assistant, one mental
16 health practitioner or psychologist licensed under the requirements
17 of section 71-1,206.15 or the equivalent thereof, and one dentist.

18 Members shall serve for terms of three years. When a
19 vacancy occurs, appointment to fill the vacancy shall be made
20 for the balance of the term. All appointed members shall be
21 citizens and residents of Nebraska. The appointed membership of
22 the commission shall, to the extent possible, represent the three
23 congressional districts equally.

24 Sec. 601. Section 71-5655, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 71-5655 The purpose of the commission shall be to
27 advise the ~~Department of Health and Human Services Regulation~~

1 ~~and Licensure~~, department, the Legislature, the Governor, the
2 University of Nebraska, and the citizens of Nebraska regarding all
3 aspects of rural health care and to advise the office regarding
4 the administration of the Rural Health Systems and Professional
5 Incentive Act.

6 Sec. 602. Section 71-5681, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 71-5681 The Legislature hereby finds and declares that:

9 (1) Eighty-eight of Nebraska's ninety-three counties are
10 classified as mental and behavioral health profession shortage
11 areas by the federal Health Resources and Services Administration
12 and the Nebraska Department of Health and Human Services;

13 (2) The Department of Health and Human Services
14 ~~Regulation and Licensure~~ reports that seventy-four percent of the
15 state's psychiatrists, psychologists, and licensed mental health
16 practitioners live and practice in the urban areas of Omaha and
17 Lincoln, which leaves the remaining seventy-two thousand square
18 miles of Nebraska to be covered by approximately one-fourth of the
19 professionals licensed to practice behavioral health in Nebraska;

20 (3) Thirty-eight Nebraska counties have one or no
21 licensed behavioral health professional; and

22 (4) Reductions in federal funding will result in the
23 elimination of over five thousand five hundred behavioral health
24 patient visits in rural Nebraska.

25 Sec. 603. Section 71-5707, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 71-5707 (1) No person shall smoke in a public place

1 or at a public meeting except in designated smoking areas. This
2 subsection does not apply in cases in which an entire room or hall
3 is used for a private social function and seating arrangements are
4 under the control of the sponsor of the function and not of the
5 proprietor or person in charge of such room or hall.

6 (2) With respect to factories, warehouses, and similar
7 places of work not usually frequented by the general public, the
8 Department of Health and Human Services ~~Regulation and Licensure~~
9 shall, in consultation with the Department of Labor, establish
10 rules to restrict or prohibit smoking in those places of work where
11 the close proximity of workers or the inadequacy of ventilation
12 causes smoke pollution detrimental to the health and comfort of
13 nonsmoking employees.

14 (3) No person shall smoke at a site where child care
15 programs required to be licensed under section 71-1911 are
16 provided. This subsection applies to a child care program located
17 in the home of the provider only during times one or more client's
18 children are present in any part of the home.

19 (4) Smoking is prohibited in all vehicles owned or leased
20 by the state and in all buildings, and the area within ten feet
21 of any entrance of such buildings, which are owned, leased, or
22 occupied by the state except as provided in subsections (5), (6),
23 and (7) of this section.

24 (5) The following buildings or areas within buildings in
25 which persons reside or lodge may be exempt from this section:

- 26 (a) Nebraska veterans homes established pursuant to section 80-315;
27 (b) private residences; (c) facilities and institutions under the

1 control of the Department of Health and Human Services; and (d)
2 overnight lodging facilities and buildings managed by the Game
3 and Parks Commission, but no more than twenty-five percent of the
4 overnight lodging facilities at each park location shall permit
5 smoking.

6 (6) Designated smoking areas not to exceed fifty percent
7 of the space used by the public may be established in state-owned
8 buildings at the Nebraska State Fairgrounds that possess a Class C,
9 I, or M license for the sale of alcoholic liquor for consumption on
10 the premises under the Nebraska Liquor Control Act.

11 (7) Smoking may be permitted in no more than forty
12 percent of the residential housing rooms or units owned or leased
13 on each campus under the control of the Board of Regents of the
14 University of Nebraska or the Board of Trustees of the Nebraska
15 State Colleges.

16 Sec. 604. Section 71-5710, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-5710 The Department of Health and Human Services
19 ~~Regulation and Licensure shall, not later than January 1, 1980,~~
20 shall adopt and promulgate rules and regulations necessary and
21 reasonable to implement the provisions of sections 71-5701 to
22 71-5713. The Department of Health and Human Services Regulation
23 and Licensure department shall consult with interested persons
24 and professional organizations before promulgating such rules and
25 regulations.

26 Sec. 605. Section 71-5711, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 71-5711 The Department of Health and Human Services
2 ~~Regulation and Licensure~~ may, upon request, waive the provisions of
3 sections 71-5701 to 71-5713 if it determines there are compelling
4 reasons to do so and a waiver will not significantly affect the
5 health and comfort of nonsmokers.

6 Sec. 606. Section 71-5713, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-5713 The Department of Health and Human Services
9 ~~Regulation and Licensure~~ or a local public health department as
10 defined in section 71-1626 may institute an action in any court
11 with jurisdiction to enjoin any violation of the Nebraska Clean
12 Indoor Air Act. Any interested party may report possible violations
13 of the act to such departments.

14 Sec. 607. Section 71-5714, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-5714 The Tobacco Prevention and Control Cash Fund
17 is created. The fund shall be used for a comprehensive statewide
18 tobacco-related public health program administered by the
19 Department of Health and Human Services ~~Regulation and Licensure~~
20 which includes, but is not limited to (1) community programs
21 to reduce tobacco use, (2) chronic disease programs, (3) school
22 programs, (4) statewide programs, (5) enforcement, (6) counter
23 marketing, (7) cessation programs, (8) surveillance and evaluation,
24 and (9) administration. Any money in the Tobacco Prevention and
25 Control Cash Fund available for investment shall be invested by the
26 state investment officer pursuant to the Nebraska Capital Expansion
27 Act and the Nebraska State Funds Investment Act.

1 Sec. 608. Section 71-5803.04, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-5803.04 Department means the Department of Health and
4 Human Services. ~~Regulation and Licensure.~~

5 Sec. 609. Section 71-5829.05, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-5829.05 If two or more applications are submitted
8 within thirty days after the receipt of the first application
9 for the same health planning region and the approval of all
10 the applications would result in long-term care beds in the
11 health planning region in excess of the long-term care bed need
12 established in section 71-5829.04, the department shall grant
13 the application and issue a certificate of need, subject to any
14 reduction in beds required by section 71-5846 to the applicant
15 which is better able to: (1) Provide quality care; (2) operate
16 a long-term care facility in a cost-effective manner based on
17 annual cost reports submitted to the ~~Department of Health and Human~~
18 ~~Services Finance and Support~~; department; (3) accumulate financial
19 resources to complete the project; and (4) serve medicare,
20 medicaid, and medically indigent long-term care patients in the
21 area. The department shall show a preference to an application
22 filed by an applicant with facilities in Nebraska. Information to
23 make these determinations shall be limited to the application and
24 data currently collected by the state. If the applicant does not
25 have a facility in Nebraska, the department may request information
26 from other states in which the applicant is offering services to
27 make its determination.

1 Sec. 610. Section 71-5859, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-5859 The department shall adopt and promulgate rules
4 and regulations establishing procedures in accordance with the
5 Administrative Procedure Act by which the applicant may appeal
6 a decision by the department, ~~to the Director of Regulation~~
7 ~~and Licensure.~~ The applicant may appeal a final decision of the
8 ~~director~~ department to the district court in accordance with the
9 Administrative Procedure Act.

10 Sec. 611. Section 71-5903, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 71-5903 For purposes of the Assisted-Living Facility Act:

13 (1) Activities of daily living means transfer,
14 ambulation, exercise, toileting, eating, self-administration of
15 medication, and similar activities;

16 (2) Administrator means the operating officer of an
17 assisted-living facility and includes a person with a title such
18 as administrator, chief executive officer, manager, superintendent,
19 director, or other similar designation;

20 (3) Assisted-living facility has the same meaning as in
21 section 71-406;

22 (4) Authorized representative means (a) a person holding
23 a durable power of attorney for health care, (b) a guardian, or (c)
24 a person appointed by a court to manage the personal affairs of a
25 resident of an assisted-living facility other than the facility;

26 (5) Chemical restraint means a psychopharmacologic drug
27 that is used for discipline or convenience and is not required to

1 treat medical symptoms;

2 (6) Complex nursing interventions means interventions
3 which require nursing judgment to safely alter standard procedures
4 in accordance with the needs of the resident, which require nursing
5 judgment to determine how to proceed from one step to the next,
6 or which require a multidimensional application of the nursing
7 process. Complex nursing interventions does not include a nursing
8 assessment;

9 (7) Department means the Department of Health and Human
10 Services; ~~Regulation and Licensure;~~

11 (8) Health maintenance activities means noncomplex
12 interventions which can safely be performed according to exact
13 directions, which do not require alteration of the standard
14 procedure, and for which the results and resident responses are
15 predictable;

16 (9) Personal care means bathing, hair care, nail care,
17 shaving, dressing, oral care, and similar activities;

18 (10) Physical restraint means any manual method or
19 physical or mechanical device, material, or equipment attached
20 or adjacent to the resident's body that he or she cannot remove
21 easily and that restricts freedom of movement or normal access to
22 his or her own body; and

23 (11) Stable or predictable means that a resident's
24 clinical and behavioral status and nursing care needs are
25 determined to be (a) nonfluctuating and consistent or (b)
26 fluctuating in an expected manner with planned interventions,
27 including an expected deteriorating condition.

1 Sec. 612. Section 71-6010, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-6010 Department shall mean the Department of Health
4 and Human Services. ~~Regulation and Licensure.~~

5 Sec. 613. Section 71-6018.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-6018.01 (1) Unless a waiver is granted pursuant to
8 subsection (2) of this section, a nursing facility shall use the
9 services of (a) a licensed registered nurse for at least eight
10 consecutive hours per day, seven days per week and (b) a licensed
11 registered nurse or licensed practical nurse on a twenty-four-hour
12 basis seven days per week. Except when waived under subsection
13 (2) of this section, a nursing facility shall designate a licensed
14 registered nurse or licensed practical nurse to serve as a charge
15 nurse on each tour of duty. The Director of Nursing Services shall
16 be a licensed registered nurse, and this requirement shall not be
17 waived. The Director of Nursing Services may serve as a charge
18 nurse only when the nursing facility has an average daily occupancy
19 of sixty or fewer residents.

20 (2) The department may waive either the requirement that
21 a nursing facility or long-term care hospital certified under
22 Title XIX of the federal Social Security Act, as amended, use
23 the services of a licensed registered nurse for at least eight
24 consecutive hours per day, seven days per week, or the requirement
25 that a nursing facility or long-term care hospital certified under
26 Title XIX of the federal Social Security Act, as amended, use the
27 services of a licensed registered nurse or licensed practical nurse

1 on a twenty-four-hour basis seven days per week, including the
2 requirement for a charge nurse on each tour of duty, if:

3 (a)(i) The facility or hospital demonstrates to the
4 satisfaction of the department that it has been unable, despite
5 diligent efforts, including offering wages at the community
6 prevailing rate for the facilities or hospitals, to recruit
7 appropriate personnel;

8 (ii) The department determines that a waiver of the
9 requirement will not endanger the health or safety of individuals
10 staying in the facility or hospital; and

11 (iii) The department finds that, for any periods in which
12 licensed nursing services are not available, a licensed registered
13 nurse or physician is obligated to respond immediately to telephone
14 calls from the facility or hospital; or

15 (b) ~~The Department of Health and Human Services Finance~~
16 ~~and Support~~ department has been granted any waiver by the federal
17 government of staffing standards for certification under Title
18 XIX of the federal Social Security Act, as amended, and the
19 requirements of subdivisions (a)(ii) and (iii) of this subsection
20 have been met.

21 (3) ~~The Department of Health and Human Services Finance~~
22 ~~and Support~~ department shall apply for such a waiver from the
23 federal government to carry out subdivision (1)(b) of this section.

24 (4) A waiver granted under this section shall be subject
25 to annual review by the department. As a condition of granting
26 or renewing a waiver, a facility or hospital may be required to
27 employ other qualified licensed personnel. The department may grant

1 a waiver under this section if it determines that the waiver will
2 not cause the State of Nebraska to fail to comply with any of
3 the applicable requirements of medicaid so as to make the state
4 ineligible for the receipt of all funds to which it might otherwise
5 be entitled.

6 (5) The department shall provide notice of the granting
7 of a waiver to the office of the state long-term care ombudsman
8 and to the Nebraska Advocacy Services or any successor designated
9 for the protection of and advocacy for persons with mental illness
10 or mental retardation. A nursing facility granted a waiver shall
11 provide written notification to each resident of the facility or,
12 if appropriate, to the guardian, legal representative, or immediate
13 family of the resident.

14 Sec. 614. Section 71-6019, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-6019 Any employee, representative, or agent of the
17 ~~Department of Health and Human Services,~~ department, the office of
18 the state long-term care ombudsman, a law enforcement agency, or
19 the local county attorney shall be permitted access at any hour
20 to any resident of any nursing home. Friends and relatives of
21 a resident shall have access during normal visiting and business
22 hours of the facility. Representatives of community legal services
23 programs, volunteers, and members of community organizations shall
24 have access, after making arrangements with proper personnel of the
25 home, during regular visiting and business hours if the purpose of
26 such access is to:

27 (1) Visit, talk with, and make personal, social, and

1 legal services available to all residents;

2 (2) Inform residents of their rights and entitlements and
3 their corresponding obligations under federal and state laws by
4 means of educational materials and discussions in groups and with
5 individual residents;

6 (3) Assist residents in asserting their legal rights
7 regarding claims for public assistance, medical assistance, and
8 social security benefits, as well as in all other matters in which
9 residents are aggrieved. Assistance may include counseling and
10 litigation; or

11 (4) Engage in other methods of asserting, advising, and
12 representing residents so as to extend to them full enjoyment of
13 their rights.

14 Sec. 615. Section 71-6021, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-6021 (1) Notwithstanding the provisions of sections
17 71-6019 and 71-6020, the administrator of a nursing home may refuse
18 access to the nursing home to any person if the presence of such
19 person in the nursing home would be injurious to the health and
20 safety of a resident or would threaten the security of the property
21 of a resident or the nursing home or if the person seeks access to
22 the nursing home for commercial purposes. Any person refused access
23 to a nursing home may, within thirty days of such refusal, request
24 a hearing by the department. The wrongful refusal of a nursing home
25 to grant access to any person as required in sections 71-6019 and
26 71-6020 shall constitute a violation of the Nebraska Nursing Home
27 Act. A nursing home may appeal any citation issued pursuant to this

1 section in the manner provided in sections 71-452 to 71-455.

2 (2) Nothing in sections 71-6019 to 71-6021 shall be
3 construed to prevent (a) an employee of the ~~Department of~~
4 ~~Health and Human Services,~~ the Department of Health and Human
5 ~~Services Regulation and Licensure,~~ or the Department of Health
6 ~~and Human Services Finance and Support,~~ department, acting in
7 his or her official capacity, from entering a nursing home for
8 any inspection authorized by the act or any rule or regulation
9 adopted and promulgated pursuant thereto or (b) a state long-term
10 care ombudsman or an ombudsman advocate, acting in his or her
11 official capacity, from entering a nursing home to conduct an
12 investigation authorized by any rules and regulations promulgated
13 by the ~~Department of Health and Human Services,~~ department.

14 Sec. 616. Section 71-6038, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-6038 For purposes of sections 71-6038 to 71-6042:

17 (1) Complicated feeding problems include, but are not
18 limited to, difficulty swallowing, recurrent lung aspirations, and
19 tube or parenteral or intravenous feedings;

20 (2) Department means the Department of Health and Human
21 Services; ~~Regulation and Licensure;~~

22 (3) Nursing assistant means any person employed by a
23 nursing home for the purpose of aiding a licensed registered or
24 practical nurse through the performance of nonspecialized tasks
25 related to the personal care and comfort of residents other than a
26 paid dining assistant or a licensed registered or practical nurse;

27 (4) Nursing home means any facility or a distinct part

1 of any facility that provides care as defined in sections 71-420,
2 71-421, 71-422, 71-424, and 71-429; and

3 (5) Paid dining assistant means any person employed by
4 a nursing home for the purpose of aiding a licensed registered
5 or practical nurse through the feeding of residents other than a
6 nursing assistant or a licensed registered or practical nurse.

7 Sec. 617. Section 71-6042, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 71-6042 The ~~department~~ chief medical officer as
10 designated in section 6 of this act shall have the authority to
11 enforce sections 71-6038 to 71-6042 and rules and regulations
12 adopted under section 71-6041 by any of the following means:
13 Denial, suspension, restriction, or revocation of a nursing
14 home's license, refusal of the renewal of a nursing home's
15 license, restriction of a nursing home's admissions, or any other
16 enforcement provision granted to the department.

17 Sec. 618. Section 71-6043, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-6043 As used in sections 71-6043 to 71-6052, unless
20 the context otherwise requires:

21 (1) Council ~~shall mean~~ means the Nursing Home Advisory
22 Council as established by sections 71-6043 to 71-6052;

23 (2) Department ~~shall mean~~ means the Division of Public
24 Health of the Department of Health and Human Services; Regulation
25 and Licensure; and

26 (3) Nursing home ~~shall mean~~ means a nursing facility or a
27 skilled nursing facility as defined in section 71-424 or 71-429.

1 Sec. 619. Section 71-6045, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-6045 The council shall consist of sixteen members
4 appointed by the Governor as follows:

5 (1) One member shall be a licensed registered nurse in
6 the State of Nebraska;

7 (2) One member shall be a licensed physician and surgeon
8 in the State of Nebraska;

9 (3) One member shall be a licensed dentist in the State
10 of Nebraska;

11 (4) One member shall be a licensed pharmacist in the
12 State of Nebraska;

13 (5) ~~One member~~ Three members shall be a ~~representative~~
14 representatives of the Department of Health and Human Services with
15 interest in or responsibilities for aging programs, medicaid, and
16 regulation and licensure of nursing homes;

17 ~~(6) One member shall be a representative of the~~
18 ~~Department of Health and Human Services Regulation and Licensure;~~

19 ~~(7) One member shall be a representative of the~~
20 ~~Department of Health and Human Services Finance and Support;~~

21 ~~(8)~~ (6) One member shall be a representative of an agency
22 of state or local government, other than the Department of Health
23 and Human Services, Regulation and Licensure, with interests in or
24 responsibilities for nursing homes or programs related thereto;

25 ~~(9)~~ (7) Four members shall be laypersons representative
26 of the public;

27 ~~(10)~~ (8) Two members shall be administrators or owners of

1 proprietary nursing homes; and

2 ~~(11)~~ (9) Two members shall be administrators or owners of
3 voluntary nursing homes.

4 On page 1, line 15 strike the new language and reinstate
5 the stricken language.

6 Sec. 620. Section 71-6048, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-6048 The council shall meet at least once during each
9 calendar year and upon call of its chairperson or at the written
10 request of a majority of its members. The council shall annually
11 elect one of its members as chairperson and one of its members as
12 secretary. The Director of ~~Regulation and Licensure~~ Public Health
13 or his or her designee shall represent the department at all
14 meetings.

15 Sec. 621. Section 71-6053, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-6053 For the purpose of sections 71-6053 to 71-6068,
18 unless the context otherwise requires:

19 (1) Accredited institution means a postsecondary
20 educational institution approved by the board;

21 (2) Active license means a license issued by the board to
22 an administrator who meets the continuing competency requirements
23 and who submits the required fee;

24 (3) Administrator or nursing home administrator means
25 any individual who meets the education and training requirements
26 of section 71-6054 and is responsible for planning, organizing,
27 directing, and controlling the operation of a home for the aged

1 or infirm, a nursing home, or an integrated system or who in
2 fact performs such functions, whether or not such functions
3 are shared by one or more other persons. Notwithstanding this
4 subdivision or any other provision of law, the administrator of
5 an intermediate care facility for the mentally retarded may be
6 either a licensed nursing home administrator or a qualified mental
7 retardation professional;

8 (4) Administrator-in-training means a person who is
9 undergoing training to become a nursing home administrator and
10 is directly supervised in a home for the aged or infirm or nursing
11 home by a certified preceptor;

12 (5) Board means the Board of Examiners in Nursing Home
13 Administration;

14 (6) Certified preceptor means a person who is currently
15 licensed by the State of Nebraska as a nursing home administrator,
16 has three years of experience as a nursing home administrator, has
17 practiced within the last two years in a home for the aged or
18 infirm or a nursing home, and is approved by the board to supervise
19 an administrator-in-training or a person in a mentoring program;

20 (7) Core educational requirements means courses necessary
21 for licensure as a nursing home administrator and includes
22 courses in patient care and services, social services, financial
23 management, administration, and rules, regulations, and standards
24 relating to the operation of a health care facility;

25 (8) Degree or advanced degree means a baccalaureate,
26 master's, or doctorate degree from an accredited institution and
27 which includes studies in the core educational requirements;

1 (9) Degree or advanced degree in health care means a
2 baccalaureate, master's, or doctorate degree from an accredited
3 institution in health care, health care administration, or
4 services;

5 (10) Department means the Department of Health and Human
6 Services; ~~Regulation and Licensure;~~

7 (11) Home for the aged or infirm or nursing home means
8 any institution or facility licensed as a nursing facility or a
9 skilled nursing facility by the department pursuant to the Health
10 Care Facility Licensure Act, whether proprietary or nonprofit,
11 including, but not limited to, homes for the aged or infirm owned
12 or administered by the federal or state government or an agency or
13 political subdivision thereof;

14 (12) Integrated system means a health and human services
15 organization offering different levels of licensed care or
16 treatment on the same premises;

17 (13) Internship means that aspect of the educational
18 program of the associate degree in long-term care administration
19 which allows for practical experience in a home for the aged
20 or infirm or nursing home and occurs under the supervision of a
21 certified preceptor;

22 (14) License means permission to engage in nursing home
23 administration which would otherwise be unlawful in this state in
24 the absence of such permission and which is granted to individuals
25 who meet prerequisites and qualifications that allow them to
26 perform nursing home administration tasks and use the title nursing
27 home administrator;

1 (15) Nursing degree means a degree or diploma in nursing
2 from an accredited program of nursing approved by the Board of
3 Nursing;

4 (16) Previous work experience means at least two years
5 working full time in a nursing home or home for the aged or infirm
6 or previous work experience in health care administration; and

7 (17) Previous work experience in health care
8 administration means at least two years working full time
9 as an administrator or director of nursing of a hospital with a
10 long-term care unit or assisted-living facility or director of
11 nursing in a nursing home or home for the aged or infirm.

12 Sec. 622. Section 71-6059, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-6059 Every license shall be in the form of a
15 certificate under the name and seal of the department and signed
16 by the chairperson, the vice-chairperson, the secretary of the
17 board, and ~~the Director of Regulation and Licensure or his or~~
18 ~~her designee.~~ a representative of the department. A copy of
19 all licenses shall be retained in the department and shall be
20 given the same number as has been assigned to the licensee in
21 the other records of the department. Every licensed nursing home
22 administrator shall keep such license displayed in the office or in
23 the place where he or she practices.

24 Sec. 623. Section 71-6065, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-6065 (1) The Board of Examiners in Nursing Home
27 Administration is created. The board shall be under the supervision

1 of the department and shall consist of a designated representative
2 of the ~~Policy Cabinet described in section 81-3009~~ department and
3 the following members appointed by the State Board of Health: (a)
4 Two members who hold active licenses and are currently employed in
5 the management, operation, or ownership of proprietary homes for
6 the aged or infirm or nursing homes that serve the aged or infirm
7 in Nebraska; (b) two members who hold active licenses and are
8 currently employed in the management or operation of a nonprofit
9 home for the aged or infirm or nursing home or hospital caring
10 for chronically ill or infirm, aged patients; (c) one member who
11 is a member of the faculty of a college or university located in
12 the state who is actively engaged in a teaching program relating
13 to business administration, social work, gerontology, or some other
14 aspect of the administration of health care facilities; (d) one
15 member who is a licensed physician and surgeon with a demonstrated
16 interest in long-term care; (e) one member who is a licensed
17 registered nurse; and (f) two members who are laypersons, at
18 least the age of majority, residents of this state for at least
19 five years preceding appointment, and representative of consumer
20 viewpoints. The members of the board shall serve as members of such
21 board until the expiration of their respective terms or until their
22 successors have been appointed and qualified. Each appointed member
23 who is an administrator shall be licensed pursuant to sections
24 71-6053 to 71-6068.

25 (2) The appointed members shall be appointed for terms of
26 three years, and the terms shall be staggered so that the terms of
27 three appointed members of the board expire each year. The term of

1 each member shall commence on the first day of December following
2 the expiration of the term of the member whom such person succeeds.

3 A vacancy in any appointive position on the board shall be filled
4 for the unexpired portion of the term by appointment by the State
5 Board of Health in the same manner as original appointments are
6 made. Appointed members shall serve until their successors are
7 appointed and qualified.

8 (3) The State Board of Health shall have power to remove
9 from office at any time any member of the board after a public
10 hearing pursuant to the Administrative Procedure Act for physical
11 or mental incapacity to carry out the duties of a board member, for
12 continued neglect of duty, for incompetency, for acting beyond the
13 individual member's scope of authority, for malfeasance in office,
14 for any cause for which a license may be suspended or revoked, or
15 for a lack of licensure.

16 (4) The department shall adopt and promulgate rules and
17 regulations which establish definitions of conflicts of interest
18 for members of the board and which establish procedures in the case
19 such a conflict arises.

20 Sec. 624. Section 71-6068, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-6068 Whenever the Department of Health and Human
23 Services Regulation and Licensure department conducts an
24 investigation or hearing regarding loss of medicaid or medicare
25 certification of a nursing home or suspension or revocation of
26 the license of a nursing home, the board may hold a hearing to
27 determine whether there is cause to suspend, limit, revoke, or deny

1 the license of a nursing home administrator.

2 Sec. 625. Section 71-6103, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 71-6103 For purposes of the Occupational Therapy Practice
5 Act, unless the context otherwise requires:

6 (1) Active license means the license of a person who is
7 acting, practicing, functioning, and working in compliance with the
8 requirements of a license;

9 (2) Association means a recognized national or state
10 association for occupational therapy;

11 (3) Board means the Board of Occupational Therapy
12 Practice established by section 71-6115;

13 (4) Credentialing means the process of obtaining state
14 approval to provide health care services or human services or to
15 change aspects of a current approval and includes, but is not
16 limited to, granting permission to use a protected title that
17 signifies that a person is qualified to provide the services within
18 the scope of practice of a profession;

19 (5) Deep thermal agent modalities means therapeutic
20 ultrasound and phonophoresis. Deep thermal agent modalities does
21 not include the use of diathermy or lasers;

22 (6) Department means the Division of Public Health of the
23 Department of Health and Human Services; ~~Regulation and Licensure;~~

24 (7) Electrotherapeutic agent modalities means
25 neuromuscular electrical stimulation, transcutaneous electrical
26 nerve stimulation, and iontophoresis. Electrotherapeutic agent
27 modalities does not include the use of ultraviolet light;

1 (8) Mechanical devices means intermittent compression
2 devices. Mechanical devices does not include devices to perform
3 spinal traction;

4 (9) Occupational therapist means a person holding an
5 active license to practice occupational therapy;

6 (10) (a) Occupational therapy means the use of purposeful
7 activity with individuals who are limited by physical injury
8 or illness, psychosocial dysfunction, developmental or learning
9 disabilities, or the aging process in order to maximize independent
10 function, prevent further disability, and achieve and maintain
11 health and productivity.

12 (b) Occupational therapy encompasses evaluation,
13 treatment, and consultation and may include (i) remediation
14 or restoration of performance abilities that are limited due
15 to impairment in biological, physiological, psychological, or
16 neurological processes, (ii) adaptation of task, process, or the
17 environment, or the teaching of compensatory techniques, in order
18 to enhance performance, (iii) disability prevention methods and
19 techniques which facilitate the development or safe application
20 of performance skills, and (iv) health promotion strategies and
21 practices which enhance performance abilities;

22 (11) Occupational therapy aide means a person who is
23 not licensed by the board and who provides supportive services to
24 occupational therapists and occupational therapy assistants;

25 (12) Occupational therapy assistant means a person
26 holding an active license to assist in the practice of occupational
27 therapy;

1 (13) Physical agent modalities means modalities that
2 produce a biophysiological response through the use of water,
3 temperature, sound, electricity, or mechanical devices; and

4 (14) Superficial thermal agent modalities means hot
5 packs, cold packs, ice, fluidotherapy, paraffin, water, and
6 other commercially available superficial heating and cooling
7 technologies.

8 Sec. 626. Section 71-6208, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-6208 Director shall mean the Director of ~~Regulation~~
11 ~~and Licensure~~. Public Health of the Division of Public Health.

12 Sec. 627. Section 71-6221, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-6221 (1) After January 1, 1985, a health profession
15 shall be regulated by the state only when:

16 (a) Unregulated practice can clearly harm or endanger the
17 health, safety, or welfare of the public and the potential for
18 the harm is easily recognizable and not remote or dependent upon
19 tenuous argument;

20 (b) Regulation of the profession does not impose
21 significant new economic hardship on the public, significantly
22 diminish the supply of qualified practitioners, or otherwise create
23 barriers to service that are not consistent with the public welfare
24 and interest;

25 (c) The public needs, and can reasonably be expected
26 to benefit from, assurance of initial and continuing professional
27 ability by the state; and

1 (d) The public cannot be effectively protected by other
2 means in a more cost-effective manner.

3 (2) If it is determined that practitioners of a health
4 profession not currently regulated are prohibited from the full
5 practice of their profession in Nebraska, then the following
6 criteria shall be used to determine whether regulation is
7 necessary:

8 (a) Absence of a separate regulated profession creates a
9 situation of harm or danger to the health, safety, or welfare of
10 the public and the potential for the harm is easily recognizable
11 and not remote or dependent upon tenuous argument;

12 (b) Creation of a separate regulated profession would not
13 create a significant new danger to the health, safety, or welfare
14 of the public;

15 (c) Creation of a separate regulated profession would
16 benefit the health, safety, or welfare of the public; and

17 (d) The public cannot be effectively protected by other
18 means in a more cost-effective manner.

19 (3) After March 18, 1988, the scope of practice of a
20 regulated health profession shall be changed only when:

21 (a) The present scope of practice or limitations on the
22 scope of practice create a situation of harm or danger to the
23 health, safety, or welfare of the public and the potential for
24 the harm is easily recognizable and not remote or dependent upon
25 tenuous argument;

26 (b) The proposed change in scope of practice does not
27 create a significant new danger to the health, safety, or welfare

1 of the public;

2 (c) Enactment of the proposed change in scope of practice
3 would benefit the health, safety, or welfare of the public; and

4 (d) The public cannot be effectively protected by other
5 means in a more cost-effective manner.

6 (4) ~~The Department of Health and Human Services~~
7 ~~Regulation and Licensure~~ Division of Public Health shall, by rule
8 and regulation, establish standards for the application of each
9 criterion which shall be used by the review bodies in recommending
10 whether proposals for credentialing or change in scope of practice
11 meet the criteria.

12 Sec. 628. Section 71-6301, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-6301 For purposes of the Asbestos Control Act, unless
15 the context otherwise requires:

16 (1) Asbestos means asbestiform varieties of chrysotile,
17 crocidolite, amosite, anthophyllite, tremolite, and actinolite;

18 (2) Asbestos encapsulation project means activities which
19 include the coating of asbestos-containing surface material with a
20 bridging or penetrating type of sealing material for the intended
21 purpose of preventing the continued release of asbestos fibers
22 from the material into the air. Such project does not include the
23 repainting of a previously painted nonfriable asbestos-containing
24 surface which is not damaged primarily for improving the appearance
25 of such surface;

26 (3) Asbestos enclosure project means activities which
27 physically isolate friable asbestos and which control and contain

1 fibers released from asbestos-containing material by constructing a
2 permanent airtight barrier between the asbestos-containing material
3 and the occupied building space;

4 (4) Asbestos occupation means an inspector, management
5 planner, project designer, project monitor, supervisor, or worker;

6 (5) Asbestos project means an asbestos enclosure project,
7 an asbestos encapsulation project, an asbestos removal project,
8 an asbestos-related demolition project, or an asbestos-related
9 dismantling project but does not include (a) any activities which
10 affect three square feet or less or three linear feet or less
11 of asbestos-containing material on or in a structure or equipment
12 or any appurtenances thereto or (b) any activities physically
13 performed by a homeowner, a member of the homeowner's family, or an
14 unpaid volunteer on or in the homeowner's residential property of
15 four units or less;

16 (6) Asbestos removal project means activities which
17 include the physical removal of friable asbestos-containing
18 material from the surface of a structure or from equipment which
19 is intended to remain in place after the removal. Such project
20 also includes the physical removal of asbestos from a structure or
21 equipment after such structure or equipment has been removed as
22 part of an asbestos-related dismantling project;

23 (7) Asbestos-related demolition project means activities
24 which include the razing of all or a portion of a structure
25 which contains friable asbestos-containing materials or other
26 asbestos-containing materials which may become friable when such
27 materials are cut, crushed, ground, abraided, or pulverized;

1 (8) Asbestos-related dismantling project means activities
2 which include the disassembly, handling, and moving of the
3 components of any structure or equipment which has been coated with
4 asbestos-containing material without first removing such material
5 from the structure or from the equipment;

6 (9) Business entity means a partnership, limited
7 liability company, firm, association, corporation, sole
8 proprietorship, public entity, or other public or private
9 business concern involved in an asbestos project except an entity
10 solely involved as a management planner or project designer;

11 (10) Certificate means an authorization issued by the
12 department permitting an individual person to work in an asbestos
13 occupation;

14 (11) Demolition means the wrecking, razing, or removal of
15 any structure or load-supporting structural item of any structure,
16 including any related material handling operations, and includes
17 the intentional burning of any structure;

18 (12) Department means the Department of Health and Human
19 Services; ~~Regulation and Licensure;~~

20 ~~(13) Director means the Director of Regulation and~~
21 ~~Licensure or his or her designee;~~

22 ~~(14)~~ (13) Enclosure means the construction of an
23 airtight, impermeable, permanent barrier around asbestos-containing
24 material to control the release of asbestos fibers into the air;

25 ~~(15)~~ (14) Friable asbestos means asbestos in a form which
26 can be crumbled, pulverized, or reduced to powder by hand pressure;

27 ~~(16)~~ (15) Inspector means an individual who is certified

1 by the department to identify and assess the condition of
2 asbestos-containing material;

3 ~~(17)~~ (16) Instructor means an individual who is approved
4 by the department to teach an asbestos-related training course;

5 ~~(18)~~ (17) License means an authorization issued by the
6 department permitting a business entity to engage in an asbestos
7 project;

8 ~~(19)~~ (18) Management planner means an individual who is
9 certified by the department to assess the hazard of materials
10 containing asbestos, to determine the appropriate response actions,
11 and to write management plans;

12 ~~(20)~~ (19) Project designer means an individual who
13 is certified by the department to formulate plans and write
14 specifications for conducting asbestos projects;

15 ~~(21)~~ (20) Project monitor means an individual who
16 is certified by the department to observe abatement activities
17 performed by contractors, to represent the building owner to ensure
18 work is completed according to specifications and in compliance
19 with statutes and regulations, and to perform air monitoring to
20 determine final clearance;

21 ~~(22)~~ (21) Project review means review of a licensed
22 business entity's proposed asbestos project;

23 ~~(23)~~ (22) Renovation means the altering of a structure,
24 one or more structural items, or one or more equipment items in
25 any way, including any asbestos project performed on a structure,
26 structural item, or equipment item;

27 ~~(24)~~ (23) Supervisor means an individual who is certified

1 by the department to supervise and direct an asbestos project
2 in accordance with the Asbestos Control Act and the rules and
3 regulations adopted and promulgated pursuant to such act; and

4 ~~(25)~~ (24) Worker means an individual who is certified
5 by the department to clean, handle, repair, remove, encapsulate,
6 haul, dispose of, or otherwise work with asbestos material in a
7 nonsupervisory capacity.

8 Sec. 629. Section 71-6303, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-6303 (1) The department shall administer the Asbestos
11 Control Act.

12 (2) The department shall adopt and promulgate rules and
13 regulations necessary to carry out the act. The department shall
14 adopt state standards governing asbestos projects and may adopt
15 or incorporate part or all of any federal standards in the state
16 standards so long as state standards are no less stringent than
17 federal standards.

18 (3) The department shall prescribe fees based upon the
19 following schedule:

20 (a) For a business entity license or license renewal, not
21 less than two thousand dollars or more than five thousand dollars;

22 (b) For waiver on an emergency basis of a business entity
23 license, not less than two thousand dollars or more than five
24 thousand dollars;

25 (c) For waiver of a license for a business entity not
26 primarily engaged in asbestos projects, not less than two thousand
27 dollars or more than five thousand dollars;

1 (d) For approval of an initial training course, not less
2 than one thousand dollars or more than two thousand five hundred
3 dollars, which fee shall include one onsite inspection if the
4 inspection is required by the department;

5 (e) For approval of a review course or a four-hour
6 course on Nebraska law, rules, and regulations, not less than five
7 hundred dollars or more than one thousand dollars, which fee shall
8 include one onsite inspection if the inspection is required by the
9 department;

10 (f) For an onsite inspection of an asbestos project other
11 than an initial inspection, not less than one hundred fifty dollars
12 or more than two hundred fifty dollars. Such fees shall not be
13 assessed for more than three onsite inspections per year during the
14 period an actual asbestos project is in progress; and

15 (g) For a project review of each asbestos project of a
16 licensed business entity which is equal to or greater than two
17 hundred sixty linear feet or any combination which is equal to
18 or greater than one hundred sixty square feet and linear feet,
19 including any initial onsite inspection, not less than two hundred
20 dollars or more than five hundred dollars.

21 Any such applicant whose application is rejected shall
22 be allowed the return of the application fee, except that an
23 administrative charge of three hundred dollars for a license and
24 one hundred dollars for approval of a training course shall be
25 retained by the department.

26 All fees shall be based on the costs of administering
27 the Asbestos Control Act. In addition to the fees prescribed in

1 this section, the department may charge and receive the actual
2 costs for board, room, and travel by employees in excess of three
3 hundred dollars, which costs shall not exceed the amounts allowable
4 in sections 81-1174 to 81-1177. All such fees collected by the
5 department shall be remitted to the State Treasurer for credit
6 to the ~~Department of Health and Human Services Regulation and~~
7 ~~Licensure~~ Health and Human Services Cash Fund. Money credited to
8 the fund pursuant to this section shall be used by the department
9 for the purpose of administering the act.

10 (4) At least once a year during the continuation of an
11 asbestos project, the department shall conduct an onsite inspection
12 of each licensed business entity's procedures for performing
13 asbestos projects.

14 (5) The department may enter into agreements or contracts
15 with public agencies to conduct any inspections required under the
16 act.

17 (6) The department shall adopt and promulgate rules and
18 regulations defining work practices for asbestos projects. The
19 department may provide for alternatives to specific work practices
20 when the health, safety, and welfare of all classes of asbestos
21 occupations and the general public are adequately protected.

22 (7) The department may apply for and receive funds from
23 the federal government and any other public or private entity for
24 the purposes of administering the act.

25 (8) The department shall establish and collect fees
26 for issuance and renewal of certificates as provided in section
27 71-162 for persons certified under section 71-6310. The department

1 shall adopt and promulgate rules and regulations to establish
2 continuing competency requirements for persons certified under
3 the act. Continuing education is sufficient to meet continuing
4 competency requirements. The requirements may also include, but not
5 be limited to, one or more of the continuing competency activities
6 listed in section 71-161.09 which a certified person may select as
7 an alternative to continuing education.

8 Sec. 630. Section 71-6309, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-6309 (1) In the event of an emergency in which, in the
11 opinion of the ~~director~~, department, there is created a situation
12 of present and severe danger which poses an immediate threat to
13 the public health, safety, and welfare, the ~~director~~ department
14 may waive the requirement for licensure or certification upon
15 application and payment of the fee prescribed by the department.
16 Such emergency waiver shall be limited to the time required to take
17 protective measures.

18 (2) The department may, on a case-by-case basis, approve
19 an alternative to a specific worker protection requirement for
20 an asbestos project if the business entity submits a written
21 description of the alternative procedure and demonstrates to the
22 department's satisfaction that the proposed alternative procedure
23 provides equivalent protection to the health, safety, and welfare
24 of all classes of asbestos occupations and the general public.

25 (3) If the business entity is not primarily engaged in
26 asbestos projects, the department may waive the requirement for
27 a license upon application and payment of the fee prescribed by

1 the department if worker protection requirements are met or an
2 alternative procedure is approved pursuant to subsection (2) of
3 this section and the health, safety, and welfare of the general
4 public is protected.

5 Sec. 631. Section 71-6319.15, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-6319.15 Department means the Department of Health and
8 Human Services. ~~Regulation and Licensure.~~

9 Sec. 632. Section 71-6319.28, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-6319.28 Lead-based paint hazard means any condition
12 that causes exposure to lead from lead-contaminated dust,
13 lead-contaminated soil, or lead-contaminated paint that is
14 deteriorated paint or is present in accessible surfaces, friction
15 surfaces, or impact surfaces that would result in adverse human
16 health effects as identified by the ~~director.~~ department.

17 Sec. 633. Section 71-6319.30, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-6319.30 Lead-contaminated dust means surface dust in
20 a residential dwelling or child-occupied facility that contains
21 an area or mass concentration of lead at or in excess of levels
22 identified by the ~~director.~~ department.

23 Sec. 634. Section 71-6319.31, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-6319.31 Lead-contaminated soil means bare soil on
26 residential real property or on the property of a child-occupied
27 facility that contains lead at or in excess of levels identified by

1 the ~~director,~~ department.

2 Sec. 635. Section 71-6321, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-6321 (1) The department shall administer the
5 Residential Lead-Based Paint Professions Certification Act.

6 (2) The department shall adopt and promulgate rules and
7 regulations necessary to carry out such act. The department shall
8 adopt state standards governing abatement projects and may adopt
9 or incorporate part or all of any federal standards in such state
10 standards so long as state standards are no less stringent than
11 federal standards.

12 (3) The department shall prescribe fees based upon the
13 following schedule:

14 (a) For an annual firm certificate or certificate
15 renewal, not less than two hundred dollars or more than five
16 hundred dollars;

17 (b) For accreditation of a training program, not less
18 than one thousand dollars or more than two thousand five hundred
19 dollars, which fee shall include one onsite inspection if such
20 inspection is required by the department;

21 (c) For accreditation of a review course or a course on
22 Nebraska law, rules, and regulations, not less than five hundred
23 dollars or more than one thousand dollars, which fee shall include
24 one onsite inspection if such inspection is required by the
25 department;

26 (d) For onsite inspections other than initial
27 inspections, not less than one hundred fifty dollars or more than

1 two hundred fifty dollars. Such fees shall not be assessed for more
2 than three onsite inspections per year during the period an actual
3 abatement project is in progress; and

4 (e) For a project review of each abatement project of a
5 certified firm, not less than two hundred dollars or more than five
6 hundred dollars.

7 Any such applicant whose application is rejected shall
8 be allowed the return of the application fee, except that an
9 administrative charge of one hundred dollars for a firm certificate
10 and for accreditation of a training program shall be retained by
11 the department.

12 All fees shall be based on the costs of administering
13 the act. In addition to the fees prescribed in this section, the
14 department may charge and receive the actual costs for board,
15 room, and travel by employees in excess of three hundred dollars,
16 which costs shall not exceed the amounts allowable in sections
17 81-1174 to 81-1177. All such fees collected by the department shall
18 be remitted to the State Treasurer for credit to the ~~Department~~
19 ~~of Health and Human Services Regulation and Licensure~~ Health and
20 Human Services Cash Fund. Money credited to the fund pursuant to
21 this section shall be used by the department for the purpose of
22 administering the act.

23 (4) At least once a year during the continuation of
24 an abatement project the department shall conduct an onsite
25 inspection of each certified firm's procedures for performing
26 abatement projects.

27 (5) The department may enter into agreements or contracts

1 with public agencies to conduct any inspections required under
2 the act if such agencies have the appropriate certification or
3 accreditation as described in the act.

4 (6) The department shall adopt and promulgate rules
5 and regulations defining work practices for abatement projects,
6 for the certification of lead-based paint professions, for the
7 accreditation of training programs, for the accreditation of
8 training program providers, for the dissemination of prerenovation
9 information to homeowners and occupants, for the facilitation
10 of compliance with federal lead-based paint hazard control grant
11 programs, and for the implementation of lead-based paint compliance
12 monitoring and enforcement activities. The department may provide
13 for alternatives to specific work practices when the health,
14 safety, and welfare of all classes of lead-based paint professions
15 and the general public are adequately protected.

16 (7) The department may apply for and receive funds from
17 the federal government and any other public or private entity
18 for the purposes of administering the act. Any funds applied for,
19 received, or used by the department or any political subdivision
20 from the federal government or any public entity may be used only
21 to abate lead-based paint hazards and for the administration of
22 lead-based paint programs which address health and environmental
23 hazards caused by lead-based paint.

24 (8) The department shall establish and collect
25 certification fees and recertification fees as provided in
26 section 71-162 for individuals certified under section 71-6326.
27 The department shall adopt and promulgate rules and regulations

1 to establish continuing competency requirements for persons
2 certified under the act. Continuing education is sufficient to
3 meet continuing competency requirements. The requirements may also
4 include, but not be limited to, one or more of the continuing
5 competency activities listed in section 71-161.09 which a certified
6 person may select as an alternative to continuing education.

7 Sec. 636. Section 71-6602, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-6602 As used in sections 71-6601 to 71-6615, unless
10 the context otherwise requires:

11 (1) Activities of daily living ~~shall mean~~ means
12 assistance with ambulation, toileting, feeding, and similar
13 activities;

14 (2) Basic therapeutic care ~~shall mean~~ means basic health
15 care procedures, including, but not limited to, measuring vital
16 signs, applying hot and cold applications and nonsterile dressings,
17 and assisting with, but not administering, internal and external
18 medications which are normally self-administered. Basic therapeutic
19 care ~~shall~~ does not include health care procedures which require
20 the exercise of nursing or medical judgment;

21 (3) Department ~~shall mean~~ means the Department of Health
22 and Human Services; ~~Regulation and Licensure;~~

23 (4) Home health agency ~~shall mean~~ means a home health
24 agency as defined in section 71-417;

25 (5) Home health aide ~~shall mean~~ means a person who
26 is employed by a home health agency to provide personal care,
27 assistance with the activities of daily living, and basic

1 therapeutic care to patients of the home health agency;

2 (6) Personal care ~~shall mean~~ means bathing, hair care,
3 nail care, shaving, dressing, oral care, and similar activities;

4 (7) Supervised practical training ~~shall mean~~ means
5 training in a laboratory or other setting in which the trainee
6 demonstrates knowledge while performing tasks on an individual
7 under the direct supervision of a registered nurse or licensed
8 practical nurse; and

9 (8) Vital signs ~~shall mean~~ means temperature, pulse,
10 respiration, and blood pressure.

11 Sec. 637. Section 71-6721, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 71-6721 For purposes of the Medication Aide Act:

14 (1) Ability to take medications independently means the
15 individual is physically capable of (a) the act of taking or
16 applying a dose of a medication, (b) taking or applying the
17 medication according to a specific prescription or recommended
18 protocol, and (c) observing and monitoring himself or herself for
19 desired effect, side effects, interactions, and contraindications
20 of the medication and taking appropriate actions based upon those
21 observations;

22 (2) Administration of medication includes, but is not
23 limited to (a) providing medications for another person according
24 to the five rights, (b) recording medication provision, and (c)
25 observing, monitoring, reporting, and otherwise taking appropriate
26 actions regarding desired effects, side effects, interactions, and
27 contraindications associated with the medication;

1 (3) Caretaker means a parent, foster parent, family
2 member, friend, or legal guardian who provides care for an
3 individual;

4 (4) Child care facility means an entity or a person
5 licensed under the Child Care Licensing Act;

6 (5) Competent individual means an adult who is the
7 ultimate recipient of medication and who has the capability and
8 capacity to make an informed decision about taking medications;

9 (6) Department means the Department of Health and Human
10 Services; ~~Regulation and Licensure;~~

11 (7) Direction and monitoring means the acceptance
12 of responsibility for observing and taking appropriate action
13 regarding any desired effects, side effects, interactions, and
14 contraindications associated with the medication by a (a) competent
15 individual for himself or herself, (b) caretaker, or (c) licensed
16 health care professional;

17 (8) Facility means a health care facility or health care
18 service as defined in section 71-413 or 71-415 or an entity or
19 person certified by the ~~Department of Health and Human Services~~
20 ~~Regulation and Licensure or the Department of Health and Human~~
21 ~~Services Finance and Support~~ department to provide home and
22 community-based services;

23 (9) Five rights means getting the right drug to the right
24 recipient in the right dosage by the right route at the right time;

25 (10) Health care professional means an individual for
26 whom administration of medication is included in the scope of
27 practice;

1 (11) Home means the residence of an individual but does
2 not include any facility or school;

3 (12) Intermediate care facility for the mentally retarded
4 has the definition found in section 71-421;

5 (13) Informed decision means a decision made knowingly,
6 based upon capacity to process information about choices and
7 consequences, and made voluntarily;

8 (14) Medication means any prescription or nonprescription
9 drug intended for treatment or prevention of disease or to affect
10 body function in humans;

11 (15) Medication aide means an individual who is listed on
12 the medication aide registry operated by the ~~Department of Health~~
13 ~~and Human Services Regulation and Licensure~~; department;

14 (16) Nonprescription drug has the definition found in
15 section 71-1,142;

16 (17) Nursing home means any facility or a distinct part
17 of any facility that provides care as defined in sections 71-420,
18 71-422, 71-424, and 71-429;

19 (18) Prescription drug has the definition of prescription
20 drug or device as found in section 71-1,142;

21 (19) Provision of medication means the component of the
22 administration of medication that includes giving or applying a
23 dose of a medication to an individual and includes helping an
24 individual in giving or applying such medication to himself or
25 herself;

26 (20) PRN means an administration scheme in which a
27 medication is not routine, is taken as needed, and requires

1 assessment for need and effectiveness;

2 (21) Recipient means a person who is receiving
3 medication;

4 (22) Routine, with reference to medication, means the
5 frequency of administration, amount, strength, and method are
6 specifically fixed; and

7 (23) School means an entity or person meeting the
8 requirements for a school set by Chapter 79.

9 Sec. 638. Section 71-6724, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-6724 A medication aide, a facility using a medication
12 aide, a child care facility using the services of a person licensed
13 to operate a child care facility or a staff member of a child care
14 facility, or a school using the services of a staff member of the
15 school shall keep and maintain accurate medication administration
16 records. The medication administration records shall be available
17 to the Department of Health and Human Services Regulation and
18 Licensure, the Department of Health and Human Services, and the
19 State Department of Education for inspection and copying. The
20 medication administration records shall include information and
21 data the departments require by rules and regulations adopted under
22 the Medication Aide Act.

23 Sec. 639. Section 71-6725, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 71-6725 (1) The minimum competencies for a medication
26 aide, a person licensed to operate a child care facility or a staff
27 member of a child care facility, or a staff member of a school

1 shall include (a) maintaining confidentiality, (b) complying with
2 a recipient's right to refuse to take medication, (c) maintaining
3 hygiene and current accepted standards for infection control, (d)
4 documenting accurately and completely, (e) providing medications
5 according to the five rights, (f) having the ability to understand
6 and follow instructions, (g) practicing safety in application
7 of medication procedures, (h) complying with limitations and
8 conditions under which a medication aide may provide medications,
9 and (i) having an awareness of abuse and neglect reporting
10 requirements and any other areas as shall be determined by rules or
11 regulations.

12 (2) The Department of Health and Human Services
13 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
14 regulations setting minimum standards for competencies listed
15 in subsection (1) of this section and methods for competency
16 assessment of medication aides. The Department of Health and Human
17 Services shall adopt and promulgate rules and regulations setting
18 methods for competency assessment of the person licensed to operate
19 a child care facility or staff of child care facilities. The
20 State Department of Education shall adopt and promulgate rules and
21 regulations setting methods for competency assessment of the school
22 staff member.

23 (3) A medication aide (except one who is employed by
24 a nursing home, an intermediate care facility for the mentally
25 retarded, or an assisted-living facility), a person licensed to
26 operate a child care facility or a staff member of a child care
27 facility, or a staff member of a school shall not be required to

1 take a course. The medication aide shall be assessed to determine
2 that the medication aide has the competencies listed in subsection
3 (1) of this section.

4 (4) A medication aide providing services in an
5 assisted-living facility as defined in section 71-406, a nursing
6 home, or an intermediate care facility for the mentally retarded
7 shall be required to have completed a forty-hour course on
8 the competencies listed in subsection (1) of this section and
9 competency standards established through rules and regulations
10 as provided for in subsection (2) of this section, except that
11 a medication aide who has, prior to January 1, 2003, completed
12 a twenty-hour course and passed an examination developed and
13 administered by the Department of Health and Human Services
14 ~~Regulation and Licensure~~ may complete a second twenty-hour course
15 supplemental to the first twenty-hour course in lieu of completing
16 the forty-hour course. The department shall adopt and promulgate
17 rules and regulations regarding the procedures and criteria
18 for curriculum. Competency assessment shall include passing an
19 examination developed and administered by the department. Criteria
20 for establishing a passing standard for the examination shall be
21 established in rules and regulations.

22 (5) Medication aides providing services in nursing homes
23 or intermediate care facilities for the mentally retarded shall
24 also meet the requirements set forth in section 71-6039.

25 Sec. 640. Section 71-6732, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 71-6732 Except as provided by section 71-6731, an

1 applicant or registrant who desires to contest an action or to
2 further contest an affirmed or modified action shall do so in the
3 manner provided in the Administrative Procedure Act for contested
4 cases. The chief medical officer as designated in section 6 of
5 this act shall be the decisionmaker in a contested case under this
6 section. The hearings on a petition for judicial review of any
7 final decision regarding an action for an alleged violation shall
8 be set for hearing at the earliest possible date. The times for
9 pleadings and hearings in such action shall be set by the judge of
10 the court with the object of securing a decision at the earliest
11 possible time.

12 Sec. 641. Section 71-6743, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-6743 The Department of Health and Human Services
15 ~~Regulation and Licensure~~ may adopt and promulgate rules and
16 regulations which shall ensure proper storage, handling, and
17 disposal of medication in facilities and schools as defined in
18 section 71-6721.

19 Sec. 642. Section 71-7012, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-7012 The Breast and Cervical Cancer Advisory Committee
22 is established. The committee consists of the members of the
23 Mammography Screening Committee serving immediately prior to
24 September 9, 1995, and eight additional members appointed by the
25 ~~Director of Health and Human Services~~ chief executive officer of
26 the department or his or her designee who have expertise or a
27 personal interest in cervical cancer. The committee shall consist

1 of not more than twenty-four volunteer members, at least eight
2 of whom are women, appointed by the ~~director~~ chief executive
3 officer or his or her designee. Members of the committee shall be
4 persons interested in health care, the promotion of breast cancer
5 screening, and cervical cancer and shall be drawn from both the
6 private sector and the public sector. At least one member shall be
7 a person who has or who has had breast cancer, one member shall be
8 a radiologist, and one member shall be a medical radiographer.

9 Of the initial members of the committee, four shall be
10 appointed for terms of one year and four shall be appointed for
11 terms of two years. Thereafter all appointments shall be for terms
12 of two years. All members shall serve until their successors are
13 appointed. No member shall serve more than two successive two-year
14 terms. Vacancies in the membership of the committee for any cause
15 shall be filled by appointment by the ~~director~~ chief executive
16 officer or his or her designee for the unexpired term.

17 Duties of the committee shall include, but not be limited
18 to, recommending guidelines for the program established under
19 section 71-7002, developing and monitoring the schedule of fees
20 established pursuant to section 71-7009, encouraging payment of
21 public and private funds to the Breast and Cervical Cancer Cash
22 Fund, researching and recommending to the department reimbursement
23 limits, planning and implementing outreach and educational programs
24 to Nebraska women, advising the department on its operation of the
25 early detection of breast and cervical cancer grant from the United
26 States Department of Health and Human Services, encouraging payment
27 of public and private funds to the fund, and researching and

1 recommending to the department appropriate definitive diagnostic
2 procedures which may be reimbursed. Members of the committee shall
3 be reimbursed for their actual and necessary expenses as provided
4 in sections 81-1174 to 81-1177.

5 Sec. 643. Section 71-7105, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-7105 There is hereby created the Critical Incident
8 Stress Management Council. The council shall be composed of ~~the~~
9 ~~Director of Regulation and Licensure,~~ ~~the Director of Health and~~
10 ~~Human Services,~~ two representatives of the Department of Health and
11 Human Services, the State Fire Marshal, the Superintendent of Law
12 Enforcement and Public Safety, and the Adjutant General as director
13 of the Nebraska Emergency Management Agency. The council shall
14 specify the organizational and operational goals for the program
15 and shall provide overall policy direction for the program.

16 Sec. 644. Section 71-7107, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-7107 The Department of Health and Human Services
19 ~~Regulation and Licensure~~ shall be the lead agency for the program.

20 The department shall:

- 21 (1) Provide office support to program activities;
- 22 (2) Provide necessary equipment for the program and
23 participants;
- 24 (3) Provide staff support to the council;
- 25 (4) Adopt and promulgate rules and regulations to
26 implement the program;
- 27 (5) Recruit hospital personnel and emergency medical

1 workers to be trained as critical incident stress management peers;

2 (6) Participate in the training and continuing education
3 of such peers and mental health professionals; and

4 (7) Appoint a director for the program who shall be an
5 employee of the department and shall be the chairperson of the
6 committee.

7 Sec. 645. Section 71-7110, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-7110 Each critical incident stress management
10 region shall have a regional management committee composed of
11 representatives of the Department of Health and Human Services,
12 ~~Regulation and Licensure~~, the State Fire Marshal, and the Nebraska
13 State Patrol and a regional clinical director. The regional
14 clinical director shall have a graduate degree in a mental health
15 discipline. The regional management committee shall be responsible
16 for the implementation and coordination of the program in the
17 region according to the specifications developed by the council
18 and Interagency Management Committee. The regional management
19 committee shall develop critical incident stress management teams
20 to facilitate the stress management process.

21 Sec. 646. Section 71-7434, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 71-7434 Department means the Department of Health and
24 Human Services. ~~Regulation and Licensure.~~

25 Sec. 647. Section 71-7450, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 71-7450 (1) Licensure activities under the Wholesale Drug

1 Distributor Licensing Act shall be funded by license fees. An
2 applicant for an initial or renewal license under the act shall pay
3 a license fee as provided in this section.

4 (2) License fees shall include (a) a base fee of fifty
5 dollars and (b) an additional fee of not more than five hundred
6 dollars based on variable costs to the department of inspections
7 and of receiving and investigating complaints, other similar direct
8 and indirect costs, and other relevant factors as determined by the
9 department.

10 (3) If the licensure application is denied, the license
11 fee shall be returned to the applicant, except that the department
12 may retain up to twenty-five dollars as an administrative fee
13 and may retain the entire license fee if an inspection has been
14 completed prior to such denial.

15 (4) The department shall also collect a fee for
16 reinstatement of a license that has lapsed or has been suspended or
17 revoked. The department shall collect a fee of ten dollars for a
18 duplicate original license.

19 (5) The department shall remit all license fees collected
20 under this section to the State Treasurer for credit to the
21 ~~Department of Health and Human Services Regulation and Licensure~~
22 Health and Human Services Cash Fund. License fees collected under
23 this section shall only be used for activities related to the
24 licensure of wholesale drug distributors.

25 Sec. 648. Section 71-7457, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 71-7457 (1) A wholesale drug distributor license may be

1 denied, refused renewal, suspended, limited, or revoked by the
2 ~~Director of Regulation and Licensure~~ department when the ~~director~~
3 department finds that the applicant or licensee has violated any
4 provisions of the Wholesale Drug Distributor Licensing Act or of
5 the rules and regulations adopted and promulgated under the act or
6 has committed any acts or offenses set forth in section 71-147,
7 71-148, or 71-7459. All actions and proceedings shall be carried
8 out as specified in sections 71-147 to 71-161.19.

9 (2) For purposes of this section, applicant or licensee
10 includes, but is not limited to, the board of directors, chief
11 executive officer, and other officers of the applicant or the
12 entity to which the license is issued and the manager of each site
13 if more than one site is located in this state.

14 Sec. 649. Section 71-7603, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-7603 ~~The Director of Health and Human Services, the~~
17 ~~Director of Regulation and Licensure, and the Director of Finance~~
18 ~~and Support~~ Department of Health and Human Services shall annually
19 report to the Governor and the Legislature on the status of health
20 care expenditures in Nebraska. Such report shall also address the
21 access of Nebraskans to health care services, issues related to
22 quality assurance, differences in the health care status of persons
23 in different parts of Nebraska, changes needed in the education
24 of health care personnel in Nebraska, and recommendations for
25 improvements in the health care delivery system generally.

26 Sec. 650. Section 71-7606, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 71-7606 (1) The purpose of the Nebraska Health Care
2 Funding Act is to provide for the use of dedicated revenue for
3 health-care-related expenditures.

4 (2) Any funds appropriated or distributed under the act
5 shall not be considered ongoing entitlements or obligations on the
6 part of the State of Nebraska and shall not be used to replace
7 existing funding for existing programs.

8 (3) No funds appropriated or distributed under the act
9 shall be used for abortion, abortion counseling, referral for
10 abortion, school-based health clinics, or research or activity of
11 any kind involving the use of human fetal tissue obtained in
12 connection with the performance of an induced abortion or involving
13 the use of human embryonic stem cells or for the purpose of
14 obtaining other funding for such use.

15 (4) The Department of Health and Human Services ~~and the~~
16 ~~Department of Health and Human Services Finance and Support~~ shall
17 report annually to the Legislature and the Governor regarding the
18 use of funds appropriated under the act and the outcomes achieved
19 from such use.

20 Sec. 651. Section 71-7607, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 71-7607 (1) The Nebraska Medicaid Intergovernmental Trust
23 Fund is created. The fund shall include revenue received from
24 governmental nursing facilities receiving payments for nursing
25 facility services under the medical assistance program established
26 pursuant to the Medical Assistance Act. The Department of Health
27 and Human Services ~~Finance and Support~~ shall remit such revenue to

1 the State Treasurer for credit to the fund. The department shall
2 adopt and promulgate rules and regulations to establish procedures
3 for participation by governmental nursing facilities and for the
4 receipt of such revenue under this section. Money from the Nebraska
5 Medicaid Intergovernmental Trust Fund shall be transferred to the
6 Nebraska Health Care Cash Fund as provided in section 71-7611.

7 (2) The department may use revenue in the Nebraska
8 Medicaid Intergovernmental Trust Fund to offset any unanticipated
9 reductions in medicaid funds received under this section.

10 (3) Any money in the Nebraska Medicaid Intergovernmental
11 Trust Fund available for investment shall be invested by the state
12 investment officer pursuant to the Nebraska Capital Expansion Act
13 and the Nebraska State Funds Investment Act.

14 Sec. 652. Section 71-7608, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 71-7608 The Nebraska Tobacco Settlement Trust Fund is
17 created. The fund shall include any settlement payments or other
18 revenue received by the State of Nebraska in connection with any
19 tobacco-related litigation to which the State of Nebraska is a
20 party. The Department of Health and Human Services ~~Finance and~~
21 ~~Support~~ shall remit such revenue to the State Treasurer for credit
22 to the fund, except that of such revenue received on or after
23 April 1, 2005, two million five hundred thousand dollars shall be
24 credited annually to the Tobacco Prevention and Control Cash Fund.
25 Subject to the terms and conditions of such litigation, money from
26 the Nebraska Tobacco Settlement Trust Fund shall be transferred to
27 the Nebraska Health Care Cash Fund as provided in section 71-7611.

1 Any money in the Nebraska Tobacco Settlement Trust Fund available
2 for investment shall be invested by the state investment officer
3 pursuant to the Nebraska Capital Expansion Act and the Nebraska
4 State Funds Investment Act.

5 Sec. 653. Section 71-7614, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 71-7614 (1) The Nebraska Health Care Council is created.
8 The council shall consist of a chairperson and eight additional
9 members appointed by the Governor with the approval of a majority
10 of the Legislature. The members shall be appointed for staggered
11 three-year terms. The council shall include at least one consumer,
12 one health care provider, and one member of a racial or ethnic
13 minority. ~~The Director of Finance and Support or his or her~~
14 ~~designee~~ The chief executive officer of the Department of Health
15 and Human Services or his or her designee shall be a nonvoting,
16 ex officio member of the council. Any vacancy shall be filled in
17 the same manner as the original appointment for the unexpired
18 term. Members of the council shall be reimbursed for their
19 actual and necessary expenses as provided in sections 81-1174
20 to 81-1177. ~~The Department of Health and Human Services Finance~~
21 ~~and Support~~ department shall provide staff support for the council.
22 ~~The Department of Health and Human Services and the Department~~
23 ~~of Health and Human Services Regulation and Licensure shall also~~
24 ~~assist the Department of Health and Human Services Finance and~~
25 ~~Support~~ and shall assist the council as may be necessary.

26 (2) Funds as appropriated by the Legislature from the
27 Nebraska Health Care Cash Fund shall be used for grants awarded

1 by the council for public health purposes as defined by the
2 council and adopted in rules and regulations of the ~~Department of~~
3 ~~Health and Human Services Finance and Support~~ department. At least
4 fifteen percent of the funds appropriated for such grants shall
5 be awarded by the council to improve racial and ethnic minority
6 health. Grants awarded under this section shall not exceed three
7 years in duration, except that extensions of up to one year may
8 be granted by the council for good cause. The council shall report
9 all such extensions to the ~~Department of Health and Human Services~~
10 ~~Finance and Support~~ department and to the Health and Human Services
11 Committee of the Legislature.

12 (3) The ~~Department of Health and Human Services Finance~~
13 ~~and Support~~ department shall:

14 (a) In consultation with the council, develop criteria
15 for the awarding of grants from the fund pursuant to this section;

16 (b) Approve or disapprove decisions by the council
17 regarding the selection of projects to be funded and the
18 distribution of project funding;

19 (c) In consultation with the council, establish
20 standards, formats, procedures, and timelines for the successful
21 implementation of approved projects;

22 (d) In consultation with the council, assist grant
23 recipients in determining the effectiveness of the project and
24 measure the accomplishment of the grant objectives;

25 (e) Provide annual reports to the Governor and the
26 Legislature concerning the projects. Each report shall include
27 a listing of priorities established by the council for grants

1 awarded under this section, the number of applicants and approved
2 applicants for such grants, an overview of the various funded
3 projects, and detailed reports of the cost of such projects;

4 (f) In consultation with the council, adopt and
5 promulgate rules and regulations establishing criteria, standards,
6 and procedures regarding the selection and administration of funded
7 projects; and

8 (g) Require recipients of grants under this section to
9 provide such data relating to the funded projects as the department
10 deems necessary.

11 Sec. 654. Section 71-7617, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 71-7617 The Department of Health and Human Services
14 ~~Regulation and Licensure~~ shall contract with the health clinics
15 of Nebraska's federally recognized Native American tribes, Indian
16 health organizations, or other public health organizations that
17 have a substantial Native American clientele to provide educational
18 and public health services targeted to Native American populations.
19 The following educational and public health services may be
20 considered by the department for such contracts:

21 (1) Identification and enrollment of children in state
22 and federal programs providing access to health insurance or health
23 care;

24 (2) Efforts to educate children and adults about the
25 health risks associated with smoking and tobacco use, alcohol
26 abuse, and other substances that threaten health and well-being and
27 other activities designed to reduce the rate of substance abuse;

1 (3) Prenatal care education for women and notification of
2 programs that improve prenatal care;

3 (4) Education focusing on proper diet and the importance
4 of physical activity to good health;

5 (5) Blood pressure and cholesterol screenings;

6 (6) Support of efforts to identify children and adults at
7 risk for depression and other mental health conditions and provide
8 mental health counseling to prevent suicide;

9 (7) Parenting classes and the promotion of such programs;

10 (8) Efforts to discourage drinking and driving and to
11 encourage the use of seat belts;

12 (9) Tests and education for acquired immunodeficiency
13 syndrome and other sexually transmitted diseases;

14 (10) Tests for pregnancy and referrals to prenatal care
15 when directed;

16 (11) Educational efforts aimed at reducing teen
17 pregnancies and other unintended pregnancies;

18 (12) Case management for pregnant women, children, or
19 adults with special health care needs;

20 (13) Efforts to make health care prevention services more
21 affordable or accessible;

22 (14) Matching funds for state and federal programs
23 designed to address public health needs;

24 (15) Staffing needs for public health services or
25 education including the recruitment and training of Native American
26 providers;

27 (16) Cervical and breast cancer detection services

1 and other prevention components of comprehensive women's health
2 services;

3 (17) Education to prevent and reduce the occurrence of
4 diabetes; and

5 (18) Other prevention or educational activities or
6 programs that address the health, safety, or self-sufficiency of
7 Native American persons.

8 Sec. 655. Section 71-7618, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 71-7618 During each fiscal year, the ~~Director of~~
11 ~~Regulation and Licensure~~ Department of Health and Human Services
12 shall contract with the health clinics of Nebraska's federally
13 recognized Native American tribes as approved by the tribal
14 councils, Indian health organizations, or other public health
15 organizations that have a substantial Native American clientele to
16 provide educational and public health services pursuant to section
17 71-7617. The ~~director~~ department shall fund all eligible contracts
18 until the appropriation to this program is depleted, but shall give
19 priority to contracts which meet the following criteria:

20 (1) Programs or activities that directly impact the
21 health and well-being of children;

22 (2) Programs or activities which serve the greater number
23 of people over the longest period of time;

24 (3) Programs or activities that are part of a larger plan
25 for strategic public health planning and implementation;

26 (4) Current programs or activities that have demonstrated
27 success in improving public health or new programs or activities

1 modeled on successful programs and activities; and

2 (5) Programs or activities that focus on primary
3 prevention and show promise in reducing future health care
4 expenditures.

5 Sec. 656. Section 71-7619, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 71-7619 The Department of Health and Human Services
8 ~~Regulation and Licensure~~ shall provide technical assistance and
9 assessment of needs evaluations upon request to aid tribal councils
10 in the development of contract proposals.

11 Sec. 657. Section 71-7620, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 71-7620 The recipients of funds under the Native American
14 Public Health Act shall submit a report on the activities funded
15 each fiscal year. The report shall provide information as required
16 by the ~~Director of Regulation and Licensure~~ Department of Health
17 and Human Services to determine the effectiveness of the contract
18 in meeting the goals of the Native American Public Health Act.

19 Sec. 658. Section 71-7621, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 71-7621 If the ~~Director of Regulation and Licensure~~
22 Department of Health and Human Services determines that services
23 are not being delivered in accordance with the contract, the
24 ~~director department~~ may seek to recapture all or a portion of funds
25 expended.

26 Sec. 659. Section 71-7622, Revised Statutes Cumulative
27 Supplement, 2006, is amended to read:

1 71-7622 The Department of Health and Human Services
2 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
3 regulations to carry out the Native American Public Health Act
4 and shall adhere to already established or adopted and promulgated
5 rules and regulations for contracted services under the act.

6 Sec. 660. Section 71-7702, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-7702 For purposes of the Health Care Facility-Provider
9 Cooperation Act:

10 (1) Community planning ~~shall mean~~ means a plan which
11 identifies (a) health-care-related resources, facilities, and
12 services within the community, (b) the health care needs of the
13 community, (c) gaps in services, (d) duplication of services, and
14 (e) ways to meet health care needs;

15 (2) Cooperative agreement ~~shall mean~~ means an agreement
16 among two or more health care facilities or other providers
17 for the sharing, allocation, or referral of patients, personnel,
18 instructional programs, equipment, support services and facilities,
19 or medical, diagnostic, or laboratory facilities or procedures or
20 other services traditionally offered or purchased by health care
21 facilities or other providers;

22 (3) Department ~~shall mean~~ means the Department of Health
23 and Human Services; ~~Regulation and Licensure;~~

24 (4) Health care facility ~~shall mean+~~ means:

25 (a) Any facility required to be licensed under the Health
26 Care Facility Licensure Act or, if in another state, licensed in
27 such state; and

1 (b) Any parent of a health care facility, health
2 care facility subsidiary, or health care facility affiliate that
3 provides medical or medically related diagnostic and laboratory
4 services or engages in ancillary activities supporting those
5 services; and

6 (5) Provider ~~shall mean~~ means any person licensed to
7 provide health care services under Chapter 71 and engaged in the
8 practice of medicine and surgery, osteopathic medicine, pharmacy,
9 optometry, podiatry, physical therapy, or nursing.

10 Sec. 661. Section 71-8008, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-8008 The Department of Health and Human Services
13 ~~Regulation and Licensure~~ may adopt and promulgate rules and
14 regulations to implement the Certified Industrial Hygienist Title
15 Protection Act and to further regulate the use of the term
16 certified industrial hygienist.

17 Sec. 662. Section 71-8211, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-8211 Department means the Division of Public Health
20 of the Department of Health and Human Services. ~~Regulation and~~
21 ~~Licensure.~~

22 Sec. 663. Section 71-8228, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-8228 Regional medical director means a physician
25 licensed under the Uniform Licensing Law who shall report to
26 ~~the Director of Regulation and Licensure~~ Director of Public Health
27 and carry out the regional plan for his or her region.

1 Sec. 664. Section 71-8231, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-8231 State trauma medical director means a physician
4 licensed under the Uniform Licensing Law who reports to the
5 ~~Director of Regulation and Licensure~~ Director of Public Health and
6 carries out duties under the Statewide Trauma System Act.

7 Sec. 665. Section 71-8236, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-8236 The State Trauma Advisory Board is created.
10 The board shall be composed of representatives knowledgeable in
11 emergency medical services and trauma care, including emergency
12 medical providers such as physicians, nurses, hospital personnel,
13 prehospital or out-of-hospital providers, local government
14 officials, state officials, consumers, and persons affiliated
15 professionally with health science schools. The ~~Director of~~
16 ~~Regulation and Licensure~~ Director of Public Health or his or her
17 designee shall appoint the members of the board for staggered terms
18 of three years each. The department shall provide administrative
19 support to the board. All members of the board may be reimbursed
20 for their actual and necessary expenses incurred in the performance
21 of their duties as such members as provided in sections 81-1174
22 to 81-1177. The terms of members representing the same field shall
23 not expire at the same time.

24 The board shall elect a chairperson and a
25 vice-chairperson whose terms of office shall be for two years. The
26 board shall meet at least twice per year by written request of
27 the director or the chairperson.

1 Sec. 666. Section 71-8239, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-8239 (1) The department, in consultation with and
4 having solicited the advice of the State Trauma Advisory Board,
5 shall establish the statewide trauma system.

6 (2) The department, with the advice of the board, shall
7 adopt and promulgate rules and regulations to carry out the
8 Statewide Trauma System Act.

9 (3) ~~The Director of Regulation and Licensure~~ Director of
10 Public Health or his or her designee shall appoint the state trauma
11 medical director and the regional medical directors.

12 Sec. 667. Section 71-8312, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-8312 The Department of Health and Human Services
15 ~~Regulation and Licensure~~ shall periodically examine and reexamine
16 the regulations, processes, and results of the facility regulation
17 system. Changes in the facility regulation system should occur
18 whenever the department finds that:

19 (1) A program or procedure is not needed to ensure the
20 protection of the public health, safety, or welfare or a program
21 or procedure is not providing adequate protection of the public
22 health, safety, or welfare;

23 (2) A program or procedure has been more detrimental
24 than beneficial to the fulfillment of the department's regulatory
25 responsibilities as defined by law or has diminished the supply of
26 qualified providers or the public's access to needed services; or

27 (3) There are alternatives to a program or procedure that

1 would more cost effectively fulfill the department's duties and
2 responsibilities.

3 Sec. 668. Section 71-8313, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-8313 The Department of Health and Human Services
6 ~~Regulation and Licensure~~ shall review the regulation or proposed
7 regulation of categories of facilities based on the criteria
8 in sections 71-8301 to 71-8314. On or before November 1 of
9 each year, the department shall provide the Legislature with
10 recommendations for credentialing of categories of facilities not
11 previously regulated and changes in the statutes governing the
12 credentialing of categories of facilities.

13 Sec. 669. Section 71-8503, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-8503 For purposes of the Nebraska Telehealth Act:

16 (1) Department means the Department of Health and Human
17 Services; ~~Finance and Support;~~

18 (2) Health care practitioner means a Nebraska
19 medicaid-enrolled provider who is licensed, registered, or
20 certified to practice in this state by the ~~Department of Health and~~
21 ~~Human Services Regulation and Licensure;~~ department;

22 (3) Telehealth means the use of telecommunications
23 technology by a health care practitioner to deliver health care
24 services within his or her scope of practice at a site other than
25 the site where the patient is located; and

26 (4) Telehealth consultation means any contact between a
27 patient and a health care practitioner relating to the health care

1 diagnosis or treatment of such patient through telehealth but does
2 not include a telephone conversation, electronic mail message, or
3 facsimile transmission between a health care practitioner and a
4 patient or a consultation between two health care practitioners.

5 Sec. 670. Section 72-249, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 72-249 The Governor of the state is empowered and
8 directed to receive from the United States all money that may
9 be due or may become due to the state, and it shall be his or
10 her duty to deposit the same without delay in the treasury of the
11 state, taking the State Treasurer's receipts therefor. All money
12 received from the United States, for the particular benefit of
13 any institution, department, or activity under the jurisdiction of
14 the Department of Health and Human Services, or the Department
15 of Correctional Services, ~~or the Department of Health and Human
16 Services Finance and Support~~, shall be paid to the particular
17 institution, department, or activity for the benefit of which
18 it was received, as directed by the proper department, and by
19 such institution, department, or activity deposited with the State
20 Treasurer not later than the first day of the month following that
21 in which received.

22 Sec. 671. Section 75-303.01, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 75-303.01 The Department of Health and Human Services
25 ~~Finance and Support~~ or any agency organized under the Nebraska
26 Community Aging Services Act may contract for transportation for
27 its clients with a contractor which does not hold a certificate or

1 which is not otherwise exempt under section 75-303 only if:

2 (1) The proposed contractor is the individual who will
3 personally drive the vehicle in question;

4 (2) The only compensation to the contractor for the
5 transportation is paid by the department at a rate no greater
6 than that provided for reimbursement of state employees pursuant to
7 section 81-1176 for the costs incurred in the transportation; and

8 (3) (a) There is no regulated motor carrier serving the
9 area in which the client needs transportation, (b) the regulated
10 motor carrier serving the area is incapable of providing the
11 specific service in question by its own written statement or as
12 determined by the commission upon application of the regulated
13 motor carrier or the department, or (c) the regulated carrier
14 cannot or will not provide such service at the rate specified in
15 subsection (2) of section 75-303.02.

16 Sec. 672. Section 75-303.02, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 75-303.02 (1) The commission, in consultation with the
19 Department of Health and Human Services, ~~Finance and Support,~~
20 shall adopt and promulgate rules and regulations governing minimum
21 liability insurance requirements, equipment standards, driver
22 qualification requirements, and the issuance and filing of notice
23 for any contractor utilized by the department or any agency
24 organized under the Nebraska Community Aging Services Act pursuant
25 to section 75-303.01.

26 (2) The ~~Department of Health and Human Services~~
27 department or any agency organized under the Nebraska Community

1 Aging Services Act shall reimburse common and contract carriers
2 for transportation of passengers at a rate not to exceed the rate
3 of reimbursement pursuant to section 81-1176 multiplied by three.
4 The maximum reimbursement rate provided for in this subsection
5 shall not apply when the carrier (a) transports such person
6 wholly within the corporate limits of the city or village where
7 the transportation of the person originated or (b) transports
8 a disabled person as defined by the federal Americans with
9 Disabilities Act of 1990 in a vehicle that is compliant with
10 the regulations providing for the transportation of such disabled
11 person.

12 Sec. 673. Section 75-303.03, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

14 75-303.03 (1) The Department of Health and Human Services
15 ~~Finance and Support~~ may reimburse an individual for the costs
16 incurred by such individual in the transportation of a person
17 eligible to receive transportation services through the ~~Nebraska~~
18 ~~Health and Human Services System~~ department if:

19 (a) The individual is under contract with the ~~Nebraska~~
20 ~~Health and Human Services System~~ department and provides
21 transportation to the eligible person; and

22 (b) The eligible person has chosen the individual to
23 provide the transportation.

24 (2) The department shall reimburse for the costs incurred
25 in the transportation at a rate no greater than that provided for
26 reimbursement of state employees pursuant to section 81-1176.

27 (3) Transportation provided to an eligible person by

1 an individual pursuant to this section does not constitute
2 transportation for hire.

3 (4) The department may adopt and promulgate rules and
4 regulations to implement this section.

5 Sec. 674. Section 76-1304, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 76-1304 Unless the method of disposition is adopted for
8 the purpose of evasion of the provisions of sections 76-1301 to
9 76-1315, such provisions shall not apply to offers or dispositions
10 of any lot or unit in a retirement subdivision or community by
11 a purchaser for his or her own account in a single or isolated
12 transaction, nor shall such provisions apply to the following:

13 (1) Offers or dispositions of evidences of indebtedness
14 secured by a mortgage or deed of trust of real estate;

15 (2) Offers or dispositions of securities or units of
16 interest issued by a real estate investment trust regulated under
17 any state or federal statute;

18 (3) The sale or lease of real estate under or pursuant to
19 court order;

20 (4) The disposition in any manner whatsoever of any unit
21 of public housing under the administrative jurisdiction of a local
22 public housing authority;

23 (5) Offers or dispositions of securities currently
24 registered with the Director of Banking and Finance and under the
25 provisions of the Securities Act of Nebraska; and

26 (6) Health care facilities licensed by the Department of
27 Health and Human Services ~~Regulation and Licensure~~ under the Health

1 Care Facility Licensure Act.

2 Sec. 675. Section 76-14,102, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 76-14,102 If there is noncompliance by a tenant with
5 section 76-1493 materially affecting health and safety or any
6 condition which is ordered to be changed by the State Fire Marshal,
7 the State Electrical Board, the Department of Health and Human
8 Services, ~~Regulation and Licensure~~, or any other regulatory body
9 with jurisdiction over either the park or the mobile home space
10 that can be remedied by repair, replacement of a damaged item, or
11 cleaning, and the tenant fails to comply as promptly as conditions
12 require in case of emergency or within fourteen days after written
13 notice by the landlord specifying the breach and requesting that
14 the tenant remedy the breach or take reasonable steps to remedy it
15 within that period of time, the landlord may enter the mobile home
16 space, cause the work to be done in a skillful manner, and submit
17 an itemized bill for the actual and reasonable cost or the fair and
18 reasonable value as additional rent on the next date when periodic
19 rent is due or, if the rental agreement has been terminated, for
20 immediate payment. If the landlord is assessed any fine, cost, or
21 charge as a result of the tenant's failure to comply with an order
22 issued by the State Fire Marshal, the State Electrical Board, the
23 Department of Health and Human Services, ~~Regulation and Licensure~~,
24 or any other regulatory body with jurisdiction over either the park
25 or the mobile home space, the landlord may require the tenant to
26 pay such fine, cost, or charge.

27 Sec. 676. Section 77-912, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 77-912 The Director of Insurance shall transmit fifty
3 percent of the taxes paid in conformity with Chapter 44, article 1,
4 and Chapter 77, article 9, to the State Treasurer, forty percent of
5 such taxes paid to the General Fund, and ten percent of such taxes
6 paid to the Mutual Finance Assistance Fund promptly upon completion
7 of his or her audit and examination and in no event later than May
8 1 of each year, except that:

9 (1) All fire insurance taxes paid pursuant to sections
10 44-150 and 81-523 shall be remitted to the State Treasurer for
11 credit to the General Fund;

12 (2) All workers' compensation insurance taxes paid
13 pursuant to section 44-150 shall be remitted to the State Treasurer
14 for credit to the Compensation Court Cash Fund;

15 (3) Commencing with the premium and related retaliatory
16 taxes for the taxable year ending December 31, 2001, and for each
17 taxable year thereafter, all premium and related retaliatory taxes
18 imposed by section 44-150 or 77-908 paid by insurers writing health
19 insurance in this state shall be remitted to the Comprehensive
20 Health Insurance Pool Distributive Fund; and

21 (4) All taxes paid pursuant to section 77-908 for
22 capitation payments made in accordance with the Medical Assistance
23 Act shall be remitted to the ~~Department of Health and Human~~
24 ~~Services Finance and Support~~ Health and Human Services Cash Fund.

25 Sec. 677. Section 77-2602, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 77-2602 (1) Every person engaged in distributing or

1 selling cigarettes at wholesale in this state shall pay to the
2 Tax Commissioner of this state a special privilege tax. This shall
3 be in addition to all other taxes. It shall be paid prior to
4 or at the time of the sale, gift, or delivery to the retail
5 dealer in the several amounts as follows: On each package of
6 cigarettes containing not more than twenty cigarettes, sixty-four
7 cents per package; and on packages containing more than twenty
8 cigarettes, the same tax as provided on packages containing not
9 more than twenty cigarettes for the first twenty cigarettes in each
10 package and a tax of one-twentieth of the tax on the first twenty
11 cigarettes on each cigarette in excess of twenty cigarettes in each
12 package.

13 (2) Commencing July 1, 1994, and continuing until October
14 1, 2004, the State Treasurer shall place the equivalent of
15 twenty-one cents of such tax in the General Fund. Commencing
16 October 1, 2004, the State Treasurer shall place the equivalent
17 of forty-nine cents of such tax in the General Fund. The State
18 Treasurer shall reduce the amount placed in the General Fund under
19 this subsection by the amount prescribed in subdivision (3)(d) of
20 this section. For purposes of this section, the equivalent of a
21 specified number of cents of the tax shall mean that portion of the
22 proceeds of the tax equal to the specified number divided by the
23 tax rate per package of cigarettes containing not more than twenty
24 cigarettes.

25 (3) The State Treasurer shall distribute the remaining
26 proceeds of such tax in the following order:

27 (a) First, beginning July 1, 1980, the State Treasurer

1 shall place the equivalent of one cent of such tax in the
2 Nebraska Outdoor Recreation Development Cash Fund. For fiscal year
3 distributions occurring after FY1998-99, the distribution under
4 this subdivision shall not be less than the amount distributed
5 under this subdivision for FY1997-98. Any money needed to increase
6 the amount distributed under this subdivision to the FY1997-98
7 amount shall reduce the distribution to the General Fund;

8 (b) Second, beginning July 1, 1993, the State Treasurer
9 shall place the equivalent of three cents of such tax in the
10 ~~Department of Health and Human Services Finance and Support~~ Health
11 and Human Services Cash Fund to carry out sections 81-637 to
12 81-640. For fiscal year distributions occurring after FY1998-99,
13 the distribution under this subdivision shall not be less than the
14 amount distributed under this subdivision for FY1997-98. Any money
15 needed to increase the amount distributed under this subdivision to
16 the FY1997-98 amount shall reduce the distribution to the General
17 Fund;

18 (c) Third, beginning July 1, 2001, and continuing until
19 October 1, 2002, the State Treasurer shall place the equivalent of
20 five cents of such tax in the Building Renewal Allocation Fund.
21 Beginning October 1, 2002, and continuing until all the purposes of
22 the Deferred Building Renewal Act have been fulfilled, the State
23 Treasurer shall place the equivalent of seven cents of such tax
24 in the Building Renewal Allocation Fund. The Legislature shall
25 appropriate each fiscal year all sums inuring to the fund, plus
26 interest earnings, for the Task Force for Building Renewal to be
27 used to carry out its duties and to fulfill the purposes of the

1 Deferred Building Renewal Act. Unexpended balances existing at the
2 end of each fiscal year shall be, and are hereby, reappropriated.
3 The distribution under this subdivision shall not be less than the
4 amount distributed under this subdivision for FY1997-98. Any money
5 needed to increase the amount distributed under this subdivision to
6 the FY1997-98 amount shall reduce the distribution to the General
7 Fund;

8 (d) Fourth, until July 1, 2009, the State Treasurer
9 shall place in the Municipal Infrastructure Redevelopment Fund
10 the sum of five hundred twenty thousand dollars each fiscal year
11 to carry out the Municipal Infrastructure Redevelopment Fund Act.
12 The Legislature shall appropriate the sum of five hundred twenty
13 thousand dollars each year for fiscal year 2003-04 through fiscal
14 year 2008-09;

15 (e) Fifth, beginning July 1, 2001, the State Treasurer
16 shall place the equivalent of two cents of such tax in the
17 Information Technology Infrastructure Fund;

18 (f) Sixth, beginning July 1, 2001, and continuing until
19 June 30, 2016, the State Treasurer shall place one million dollars
20 each fiscal year in the City of the Primary Class Development Fund.
21 If necessary, the State Treasurer shall reduce the distribution of
22 tax proceeds to the General Fund pursuant to subsection (2) of this
23 section by such amount required to fulfill the one million dollars
24 to be distributed pursuant to this subdivision;

25 (g) Seventh, beginning July 1, 2001, and continuing
26 until June 30, 2016, the State Treasurer shall place one million
27 five hundred thousand dollars each fiscal year in the City of

1 the Metropolitan Class Development Fund. If necessary, the State
2 Treasurer shall reduce the distribution of tax proceeds to the
3 General Fund pursuant to subsection (2) of this section by such
4 amount required to fulfill the one million five hundred thousand
5 dollars to be distributed pursuant to this subdivision; and

6 (h) Eighth, beginning October 1, 2002, and continuing
7 until October 1, 2004, the State Treasurer shall place the
8 equivalent of twenty-eight cents of such tax in the Cash Reserve
9 Fund.

10 (4) If, after distributing the proceeds of such tax
11 pursuant to subsections (2) and (3) of this section, any proceeds
12 of such tax remain, the State Treasurer shall place such remainder
13 in the Nebraska Capital Construction Fund.

14 (5) The Legislature hereby finds and determines that the
15 projects funded from the Municipal Infrastructure Redevelopment
16 Fund and the Building Renewal Allocation Fund are of critical
17 importance to the State of Nebraska. It is the intent of the
18 Legislature that the allocations and appropriations made by the
19 Legislature to such funds or, in the case of allocations for
20 the Municipal Infrastructure Redevelopment Fund, to the particular
21 municipality's account not be reduced until all contracts and
22 securities relating to the construction and financing of the
23 projects or portions of the projects funded from such funds or
24 accounts of such funds are completed or paid or, in the case
25 of the Municipal Infrastructure Redevelopment Fund, the earlier
26 of such date or July 1, 2009, and that until such time any
27 reductions in the cigarette tax rate made by the Legislature

1 shall be simultaneously accompanied by equivalent reductions in the
2 amount dedicated to the General Fund from cigarette tax revenue.
3 Any provision made by the Legislature for distribution of the
4 proceeds of the cigarette tax for projects or programs other
5 than those to (a) the General Fund, (b) the Nebraska Outdoor
6 Recreation Development Cash Fund, (c) the ~~Department of Health and~~
7 ~~Human Services Finance and Support~~ Health and Human Services Cash
8 Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the
9 Building Renewal Allocation Fund, (f) the Information Technology
10 Infrastructure Fund, (g) the City of the Primary Class Development
11 Fund, (h) the City of the Metropolitan Class Development Fund, and
12 (i) the Cash Reserve Fund shall not be made a higher priority than
13 or an equal priority to any of the programs or projects specified
14 in subdivisions (a) through (i) of this subsection.

15 Sec. 678. Section 77-2704.21, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2704.21 Sales and use taxes shall not be imposed
18 on the gross receipts from the sale, lease, or rental of and
19 the storage, use, or other consumption in this state of the
20 entire purchase price of a motor vehicle purchased when the
21 maximum amount allowed by law is contributed by the United States
22 Department of Veterans Affairs or the Department of Health and
23 Human Services ~~Finance and Support~~ for a disabled person. If the
24 amount contributed is less than the maximum amount, the exemption
25 shall be based on the portion of the purchase price contributed.

26 Sec. 679. Section 77-27,162, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 77-27,162 The Department of Revenue, the Department of
2 Administrative Services, and the Department of Health and Human
3 Services, ~~and the Department of Health and Human Services Finance~~
4 ~~and Support~~ shall develop and implement a collection system to
5 carry out the intent of section 77-27,160.

6 Sec. 680. Section 77-27,222, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-27,222 (1) For purposes of this section:

9 (a) Accredited means accredited by the National
10 Association for Family Child Care, the National Association for
11 the Education of Young Children, the National School-Age Care
12 Alliance, or a comparable accreditation process approved by the
13 State Department of Education;

14 (b) Business firm means any business entity, including a
15 corporation, a fiduciary, a sole proprietorship, a partnership, a
16 limited liability company, or a corporation subject to the state
17 income tax imposed by section 77-2715 or 77-2734.02, an insurance
18 company paying premium or related retaliatory taxes in this state
19 pursuant to section 44-150 or 77-908, or a financial institution
20 paying the tax imposed pursuant to sections 77-3801 to 77-3807;

21 (c) Costs incurred by the business firm in providing
22 child care services for children of employees means the amounts
23 expended by the business firm during the year for improvements to
24 the premises for purposes of making the premises suitable in whole
25 or in part for use as a child care facility, including furnishing
26 the facility with fencing, landscaping, sidewalks, furniture,
27 fixtures, equipment, supplies, and other improvements and materials

1 reasonably required to operate a child care facility and the
2 direct operating costs of staffing, operating, and maintaining
3 a child care facility. The costs include the payroll taxes
4 and employee benefit costs of staffing the child care facility
5 and sales and use taxes on purchases included in the costs of
6 providing child care, but not an allocation of the business firm's
7 general, administrative, and other operating expenses. The costs
8 do not include the acquisition of land or the construction of new
9 buildings. The costs include payments to third parties to reimburse
10 the third parties for amounts expended by them and which would have
11 been costs incurred by the business firm in providing child care
12 services if incurred directly by the business firm or to subsidize
13 the cost of providing child care for the children of employees in
14 such third parties' facilities; and

15 (d) Providing child care services means expending funds
16 to improve, furnish, license, accredit, qualify for accreditation,
17 staff, operate, or subsidize a child care facility licensed by the
18 Department of Health and Human Services ~~Regulation and Licensure~~
19 which provides child care services to children of employees of the
20 business firm or contracting with a child care facility licensed by
21 the department to provide child care services to children of such
22 employees.

23 (2) For taxable years beginning or deemed to begin on or
24 after January 1, 2007, under the Internal Revenue Code of 1986, as
25 amended, any business firm which provides child care services shall
26 be allowed a credit against the individual income tax, corporate
27 income tax, premium or related retaliatory tax, or franchise tax

1 equal to thirty percent of the costs incurred by the business firm
2 in providing child care services for children of employees for each
3 taxable year, up to fifty percent of such business firm's total
4 tax liability. In the case of a sole proprietorship, partnership,
5 or limited liability company which is taxed as a pass-through
6 entity or a corporation which has in effect an election under
7 subchapter S of the Internal Revenue Code, the maximum allowable
8 amount of credit shall be fifty percent of the income tax liability
9 determined as if such business firm had been a corporation subject
10 to the state income tax imposed by section 77-2734.02. Such
11 pass-through entities shall allocate the allowable credit among
12 their proprietors, partners, members, or shareholders in the same
13 manner as taxable income is allocated. In the case of a fiduciary,
14 the maximum allowable amount of the credit shall be fifty percent
15 of the income tax liability of the fiduciary computed without any
16 deduction for distributions, and the allowable credit shall be
17 allocated among the fiduciary and its beneficiaries in proportion
18 to the taxable income included by each beneficiary in his or
19 her Nebraska income tax returns. In the case of a corporation
20 which is part of a unitary group as defined in section 77-2734.04
21 and which is included in the combined income tax return of such
22 group, the unitary group shall be the business firm which is
23 providing child care services. Entities which are disregarded for
24 federal income tax purposes shall be disregarded for purposes of
25 defining the business firm which is providing child care services.
26 The credit shall only be used to reduce the tax liabilities of
27 the business firm, or in the case of pass-through entities, the

1 beneficiaries, proprietors, partners, members, or shareholders, for
2 the year in which the costs were incurred. The credit may not
3 be carried forward to the next taxable year. The credit may
4 be taken by the business firm for not more than three taxable
5 years, except that if the child care facility is accredited under
6 section 43-2620 or becomes accredited under section 43-2620 during
7 the three-taxable-year period, the credit may be taken for an
8 additional consecutive two taxable years after the end of the third
9 taxable year for which a credit was taken under this section.

10 (3) Costs incurred by the business firm in providing
11 child care services for children of employees shall be reduced
12 by payments received by the business firm from employees. If
13 the business firm provides child care services for the children
14 of employees and also for the children of non-employees, the
15 direct operating costs of staffing, operating, and maintaining
16 the child care facility, including the related payroll taxes,
17 employee benefits, and sales and use taxes, shall be multiplied
18 by a fraction, the numerator of which is the total child hours of
19 care provided to the children of employees and the denominator of
20 which is the total child hours of care provided in the child care
21 facility. Child hour means one hour of care provided for one child.
22 For purposes of calculating child hours, if the business firm does
23 not in the ordinary course of its business compile the actual child
24 hours of care, it may determine the number of child hours based
25 on a reasonable convention if such convention is used consistently
26 for each year that the credit is claimed or the business firm
27 obtains the advance consent of the Tax Commissioner to change the

1 convention. Costs shall be considered incurred in the taxable year
2 in which they are either accruable or are paid in accordance with
3 the business firm's overall income tax method of accounting.

4 (4) A business firm operating a child care facility on
5 January 1, 2007, shall only qualify for the two years of tax
6 credits allowed under subsection (2) of this section relating to
7 expenditures by the business firm for direct operating costs if the
8 child care facility is accredited after January 1, 2007.

9 (5) A business firm shall not be considered to be
10 providing child care services for purposes of this section unless
11 the child care services are provided to the employees of the firm
12 who qualify under classifications established by the business firm
13 which are found by the Tax Commissioner not to be discriminatory
14 in favor of highly compensated employees. For purposes of this
15 section, highly compensated employee means an employee who was a
16 five-percent owner of the business firm at any time during the
17 year or the preceding year or, for the preceding year, either (a)
18 had compensation from the employer in excess of eighty thousand
19 dollars or (b) was among the highest twenty percent of employees
20 ranked by compensation, whichever results in the smaller group.
21 Whether an employer's classifications are nondiscriminatory shall
22 be determined on the basis of employees' eligibility to place
23 children in the child care facility.

24 (6) No amount paid or incurred by an employer to provide
25 child care assistance to an employee shall qualify for the credit
26 if the amount was paid or incurred pursuant to a salary reduction
27 plan or is not paid for services performed within this state.

1 (7) This section shall only apply to business firms that
2 meet the requirements of this section on or before December 31,
3 2011.

4 (8) If two or more business firms share in the cost of
5 providing child care services for children of such business firms'
6 employees, each business firm shall be allowed a tax credit in
7 proportion to such business firm's share of the total costs.

8 (9) The Department of Revenue and the Department of
9 Insurance shall issue a joint report by December 1, 2008, and by
10 each December 1 thereafter for so long as the credit is effective,
11 that provides the following information:

12 (a) The number of business firms qualifying for the
13 credit under this section during taxable years ending on or before
14 the previous December 31;

15 (b) The number and location by county of child care
16 facilities qualifying for the credit under this section during the
17 taxable years ending on or before the previous December 31;

18 (c) The total child-years of child care provided, the
19 range of child-years of child care provided per qualifying
20 business, and the average and median child-years of care provided
21 per qualifying business, sorted in reasonable groupings by maximum
22 enrollment during the year that include a sufficient number of
23 qualifying businesses in each group to maintain the confidentiality
24 of the taxpayers qualifying for the credit;

25 (d) The percentage of costs paid by the employees in each
26 size grouping in subdivision (c) of this subsection;

27 (e) The percentage of such child-years of care provided

1 in accredited facilities in each size grouping in subdivision (c)
2 of this subsection; and

3 (f) The total credits claimed and the total credits
4 allowed in each size grouping in subdivision (c) of this
5 subsection.

6 (10) The Department of Revenue shall develop a form
7 for claiming the credit allowed by this section stating that any
8 business firm seeking a credit under this section must supply the
9 information listed in subsection (9) of this section as a condition
10 for receiving the credit.

11 (11) The Tax Commissioner and Director of Insurance may
12 adopt and promulgate rules and regulations as necessary to carry
13 out this section.

14 Sec. 681. Section 79-217, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 79-217 Except as provided in sections 79-221 and 79-222,
17 the school board or board of education of each school district
18 and the governing authority of each private, denominational,
19 or parochial school in this state shall require each student
20 to be protected against measles, mumps, rubella, poliomyelitis,
21 diphtheria, pertussis, and tetanus by immunization prior to
22 enrollment. Any student who does not comply with this section
23 shall not be permitted to continue in school until he or she
24 so complies, except as provided by section 79-222. Each school
25 district shall make diligent efforts to inform families prior to
26 the date of school registration of the immunization requirements
27 of this section.

1 Except as provided in the Childhood Vaccine Act, the cost
2 of such immunization shall be borne by the parent or guardian of
3 each student who is immunized or by the Department of Health and
4 Human Services ~~Regulation and Licensure~~ for those students whose
5 parent or guardian is financially unable to meet such cost.

6 Sec. 682. Section 79-218, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 79-218 Any school board or board of education of a school
9 district or the governing authority of a private, denominational,
10 or parochial school in this state may request assistance from the
11 Department of Health and Human Services ~~Regulation and Licensure~~ in
12 establishing immunization clinics. Such assistance shall consist of
13 vaccines, serums, and other supplies, services, and guidance from
14 the ~~Director~~ Department of Health and Human Services.

15 Sec. 683. Section 79-219, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 79-219 The Department of Health and Human Services
18 ~~Regulation and Licensure~~ shall adopt and promulgate rules and
19 regulations relating to the required levels of protection,
20 provisional enrollment under the provisions of section 79-222,
21 the evidence necessary to prove that the required examination or
22 immunization has been received, and the reporting of each student's
23 immunization status. The department may modify, add to, or delete
24 from the list of required immunizations set out in section 79-217.
25 The department shall furnish local school authorities with copies
26 of such rules and regulations and any other material which will
27 assist in the carrying out of sections 79-214 and 79-217 to 79-223.

1 Sec. 684. Section 79-248, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-248 Every school district shall cause every child
4 under its jurisdiction to be separately and carefully inspected,
5 except as otherwise provided in this section, to ascertain if such
6 child is suffering from (1) defective sight or hearing, (2) dental
7 defects, or (3) other conditions as prescribed by the Department
8 of Health and Human Services. ~~Regulation and Licensure.~~ If such
9 inspection determines that any child has such condition, the school
10 shall notify the parent of the child in writing of such condition
11 and explain to such parent the necessity of professional attendance
12 for such child. Whenever a child apparently shows symptoms of
13 any contagious or infectious disease, such child shall be sent
14 home immediately or as soon as safe and proper conveyance can
15 be found and the proper school authority, school board, or board
16 of education shall be at once notified. Such student may be
17 excluded from school as provided in section 79-264. No child shall
18 be compelled to submit to a physical examination other than the
19 inspection by the school over the written objection of his or
20 her parent or guardian delivered to the school authorities. Such
21 objection does not exempt the child from the quarantine laws of
22 the state and does not prohibit an examination for infectious or
23 contagious diseases.

24 Sec. 685. Section 79-249, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 79-249 The Department of Health and Human Services
27 ~~Regulation and Licensure~~ shall adopt and promulgate rules

1 and regulations for conducting school health inspections, the
2 qualifications of the person or persons authorized to make such
3 inspections, and the health conditions to be observed and remedied
4 and shall furnish to school authorities regulations and other
5 useful materials for carrying out the purposes of sections 79-248
6 to 79-253.

7 On and after July 1, 1999, no staff member of any school
8 shall administer medication unless the school complies with the
9 applicable requirements of the Medication Aide Act. Notwithstanding
10 any other provision, nothing in the act shall be construed to
11 require any school to employ or use a school nurse or medication
12 aide in order to be in compliance with the act.

13 Sec. 686. Section 79-843, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 79-843 The contracts of the teaching staff and school
16 nurses employed by an educational program administered by the
17 State Department of Education, the Department of Health and Human
18 Services, or a political subdivision of the state, except a school
19 district or an educational service unit, the colleges governed by
20 the Board of Trustees of the Nebraska State Colleges, and any
21 university governed by the Board of Regents of the University of
22 Nebraska shall require the sanction of a majority of the members
23 of the governing board. Except as provided in section 79-845, each
24 such contract shall be deemed renewed and in force and effect until
25 a majority of the governing board votes or the ~~Director~~ Department
26 of Health and Human Services determines, sixty days before the
27 close of the contract period, to amend or terminate the contract

1 for just cause. The department or the secretary of the governing
2 board shall notify each teacher or school nurse in writing at
3 least ninety days before the close of the contract period of any
4 conditions of unsatisfactory performance or a reduction in teaching
5 staff or nursing staff that the department or board considers may
6 be just cause to either amend or terminate the contract for the
7 ensuing year. Any teacher or school nurse so notified shall have
8 the right to file, within five days after receipt of such notice,
9 a written request with the department or board for a hearing
10 before the department or board. Upon receipt of such request, the
11 department or board shall order the hearing to be held within ten
12 days after such receipt and shall give written notice of the time
13 and place of the hearing to the teacher or school nurse. At the
14 hearing, evidence shall be presented in support of the reasons
15 given for considering amendment or termination of the contract and
16 the teacher or school nurse shall be permitted to produce evidence
17 related thereto. The department or board shall render the decision
18 to amend or terminate a contract based on the evidence produced at
19 the hearing.

20 Sec. 687. Section 79-1104.04, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 79-1104.04 (1) The board of trustees shall include the
23 following six members:

24 (a) The Commissioner of Education or his or her designee;

25 (b) The ~~Director~~ chief executive officer of the
26 Department of Health and Human Services or his or her designee; and

27 (c) The following persons appointed by the Governor, in

1 his or her discretion:

2 (i) Two persons nominated by the endowment provider;

3 (ii) An early childhood professional representing an
4 urban at-risk area appointed pursuant to subsection (5) of this
5 section; and

6 (iii) An early childhood professional representing a
7 rural at-risk county appointed pursuant to subsection (6) of this
8 section.

9 (2) The terms of office for members initially appointed
10 under subsection (1) of this section shall be three years. Upon
11 completion of the initial terms of such members, the Governor shall
12 appoint the two members under subdivision (1)(c)(i) of this section
13 for terms of one and two years, the member under subdivision
14 (1)(c)(ii) of this section for a term of three years, and the
15 member under subdivision (1)(c)(iii) of this section for a term of
16 two years. Succeeding appointees shall be appointed for terms of
17 three years. An appointee to a vacancy occurring from an unexpired
18 term shall serve out the term of his or her predecessor. Members
19 whose terms have expired shall continue to serve until their
20 successors have been appointed and qualified.

21 (3) The board of trustees shall by majority vote annually
22 elect a chairperson from among the members of the board of
23 trustees.

24 (4) The members of the board of trustees shall be
25 reimbursed for their actual and necessary expenses incurred while
26 engaged in the performance of their official duties as provided in
27 sections 81-1174 to 81-1177.

1 (5) The Governor shall identify an at-risk urban area
2 consisting of not less than ten contiguous census tracts, as
3 determined by the United States Bureau of the Census for the 2000
4 United States Census, within a city of the metropolitan class,
5 which each contain a percentage of families below the poverty
6 line of greater than twenty percent, as reported by the United
7 States Bureau of the Census for the 2000 United States Census.
8 The Governor shall request that a committee, consisting of (a)
9 the member of the Legislature representing the district containing
10 the preponderance of geographic area of such at-risk area, (b)
11 the member of the board of county commissioners representing the
12 district containing the preponderance of geographic area of such
13 at-risk area, and (c) the member of the city council representing
14 the district containing the preponderance of geographic area of
15 such at-risk area, develop a list of not less than two and not more
16 than four nominees for appointment to the board of trustees. Upon
17 receipt of a list of nominees signed by at least two members of the
18 committee, the Governor shall, in his or her discretion, appoint a
19 member to the board of trustees from such list of nominees.

20 (6) The Governor shall, in his or her discretion, appoint
21 one member to the board of trustees who resides in a county which
22 does not contain a city of the metropolitan class or a city of
23 the primary class and which contains a percentage of families below
24 the poverty line of greater than eight and one-half percent, as
25 reported by the United States Bureau of the Census for the 2000
26 United States Census.

27 Sec. 688. Section 79-1902, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 79-1902 (1) The State Department of Education, in
3 cooperation with the Department of Health and Human Services, ~~the~~
4 ~~Department of Health and Human Services Regulation and Licensure,~~
5 ~~and the Department of Health and Human Services Finance and Support~~
6 shall develop a packet entitled "Learning Begins at Birth" to be
7 given to the parents of each child born in this state on and after
8 January 1, 2003.

9 (2) The packet shall contain information about child
10 development, child care, how children learn, children's health
11 including, on and after July 14, 2006, information on the
12 prevention of sudden infant death syndrome and shaken baby
13 syndrome, services available to children and parents, and any
14 other information deemed relevant by the Department of Health
15 and Human Services, ~~the Department of Health and Human Services~~
16 ~~Regulation and Licensure,~~ ~~the Department of Health and Human~~
17 ~~Services Finance and Support,~~ or the State Department of Education.
18 The State Department of Education shall indicate which information
19 in the packet is appropriate for the parents of infants, for the
20 parents of toddlers, and for the parents of preschoolers.

21 (3) The State Department of Education shall develop a
22 variety of types of the packet, based on the needs of parents.
23 The information in the packets may be in the form of printed
24 material or in the form of video tapes, audio cassettes, or other
25 appropriate media.

26 Sec. 689. Section 79-1903, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 79-1903 (1) The Department of Health and Human Services,
2 ~~the Department of Health and Human Services Regulation and~~
3 ~~Licensure,~~ and the Department of Health and Human Services Finance
4 and Support shall assist the State Department of Education in
5 developing the packet and shall develop methods of distributing the
6 packet to parents upon the birth of a child in this state beginning
7 on January 1, 2003.

8 (2) The departments shall solicit private financial
9 assistance to carry out their duties under the Nebraska Read,
10 Educate, and Develop Youth Act. The departments shall not endorse
11 any private company or product, but private companies may have
12 their names placed on materials in the packet to help underwrite
13 the costs of developing and distributing the packets.

14 Sec. 690. Section 79-1904, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 79-1904 The READY Cash Fund is created. The fund shall
17 contain money received from private sources to underwrite the
18 costs of the Nebraska Read, Educate, and Develop Youth Act. The
19 fund shall be used by the State Department of Education, and the
20 Department of Health and Human Services, ~~the Department of Health~~
21 ~~and Human Services Regulation and Licensure,~~ and the Department of
22 ~~Health and Human Services Finance and Support~~ to aid in carrying
23 out their duties under the act. The fund shall be administered by
24 the Department of Health and Human Services. ~~Finance and Support.~~
25 Any money in the fund available for investment may be invested
26 by the state investment officer pursuant to the Nebraska Capital
27 Expansion Act and the Nebraska State Funds Investment Act.

1 Sec. 691. Section 79-1905, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 79-1905 The State Department of Education, and the
4 Department of Health and Human Services, ~~the Department of Health~~
5 ~~and Human Services Regulation and Licensure,~~ and the Department
6 of Health and Human Services Finance and Support shall annually
7 report to the Legislature and the Governor regarding the actions,
8 activities, accomplishments, and shortcomings in carrying out the
9 Nebraska Read, Educate, and Develop Youth Act.

10 Sec. 692. Section 80-316, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 80-316 (1) The purpose of the Division of Veterans
13 Veterans' Homes of the Department of Health and Human Services is
14 to provide domiciliary and nursing home care and subsistence to:

15 (a) All persons who served in the armed forces of
16 the United States during a period of war as defined in section
17 80-401.01 and who were discharged or otherwise separated with
18 a characterization of honorable or general (under honorable
19 conditions) if, at the time of making an application for admission
20 to one of the Nebraska veterans homes:

21 (i) The applicant has been a bona fide resident of the
22 State of Nebraska for at least two years;

23 (ii) The applicant has become disabled due to service,
24 old age, or otherwise to an extent that it would prevent such
25 applicant from earning a livelihood; and

26 (iii) The applicant's income from all sources is such
27 that the applicant would be dependent wholly or partially upon

1 public charities for support or the type of care needed is
2 available only at a state institution;

3 (b) The spouse of any such person admitted to one of the
4 homes who has attained the age of fifty years and has been married
5 to such member for at least two years before his or her entrance
6 into the home;

7 (c) Subject to subsection (2) of this section,
8 the surviving spouses and parents of eligible servicemen and
9 servicewomen as defined in subdivision (a) of this subsection who
10 died while in the service of the United States or who have since
11 died of a service-connected disability as determined by the United
12 States Department of Veterans Affairs; and

13 (d) Subject to subsection (2) of this section, the
14 surviving spouses of eligible servicemen or servicewomen as defined
15 in subdivision (a) of this subsection who have since died.

16 (2) The surviving spouses and parents referred to in
17 subdivision (1)(c) or (d) of this section shall be eligible for
18 such care and subsistence if, at the time of applying, they:

19 (a) Have been bona fide residents of the State of
20 Nebraska for at least two years;

21 (b) Have attained the age of fifty years;

22 (c) Are unable to earn a livelihood; and

23 (d) Are dependent wholly or partially upon public
24 charities or the type of care needed is available only at a state
25 institution.

26 (3) No one admitted to one of the Nebraska veterans homes
27 under conditions enumerated in this section shall have a vested

1 right to continued residence in such home if such person ceases to
2 meet any of the eligibility requirements of this section, except
3 that no person who has been regularly admitted shall be denied
4 continued residence solely because of his or her marriage to a
5 member of one of the homes.

6 Sec. 693. Section 81-502, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-502 (1) It shall be the duty of the State Fire
9 Marshal, under authority of the Governor:

10 (a) To enforce all laws of the state relating to the
11 suppression of arson and investigation of the cause, origin, and
12 circumstances of fires;

13 (b) To promote safety and reduce loss by fire;

14 (c) To make an investigation for fire safety of the
15 premises and facilities of:

16 (i) Liquor establishments for which a license or renewal
17 of a license is sought, upon request of the Nebraska Liquor Control
18 Commission, pursuant to section 53-119.01;

19 (ii) Licensed foster care facilities or applicants for
20 licenses for foster care facilities, upon request by the Department
21 of Health and Human Services, pursuant to section 71-1903;

22 (iii) Licensed providers of programs or applicants for
23 licenses to provide such programs, upon request of the Department
24 of Health and Human Services, ~~Regulation and Licensure,~~ pursuant to
25 section 71-1913. The State Fire Marshal shall report the results
26 of the investigation to the department within thirty days after
27 receipt of the request from the department;

1 (iv) Licensed hospitals, skilled nursing facilities,
2 intermediate care facilities, or other health care facilities
3 which are licensed under the Health Care Facility Licensure Act or
4 applicants for licenses for such facilities or institutions, upon
5 request by the Department of Health and Human Services, ~~Regulation~~
6 ~~and Licensure~~, pursuant to section 71-441; and

7 (v) Mobile home parks for which a license or renewal
8 of a license is sought, upon request of the Department of Health
9 and Human Services, ~~Regulation and Licensure~~, pursuant to section
10 71-4635; and

11 (d) After a careful study and investigation of relevant
12 data, to adopt, promulgate, alter, and enforce, through inspections
13 and code compliance, orders, rules, and regulations covering:

14 (i) The prevention of fires;

15 (ii) The storage, sale, and use of flammable liquids,
16 combustibles, and fireworks;

17 (iii) Electric wiring and heating, protection equipment
18 devices, materials, furnishings, and other safeguards within
19 the structure necessary to promote safety and reduce loss by
20 fire, and the means and adequacy of exits, in case of fire,
21 in assembly, educational, institutional, residential, mercantile,
22 office, storage, and industrial-type occupancies as such structures
23 are defined in the National Fire Protection Association, Pamphlet
24 Number 101, and associated pamphlets, and all other buildings,
25 structures, and enclosures in which numbers of persons congregate
26 from time to time for any purpose whether privately or publicly
27 owned;

1 (iv) Design, construction, location, installation, and
2 operation of equipment for storing, handling, and utilization of
3 liquefied petroleum gases, specifying the odorization of such gases
4 and the degree thereof;

5 (v) Chemicals, prozylin plastics, X-ray nitrocellulose
6 films, or any other hazardous material that may now or hereafter
7 exist;

8 (vi) Tanks used for the storage of regulated substances
9 pursuant to the Petroleum Products and Hazardous Substances Storage
10 and Handling Act; and

11 (vii) Accessibility standards and specifications adopted
12 pursuant to section 81-5,147.

13 (2) The State Fire Marshal may enter into contracts
14 with private individuals or other agencies, boards, commissions,
15 or governmental bodies for the purpose of carrying out his or
16 her duties and responsibilities pursuant to the Arson Reporting
17 Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of
18 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and
19 81-5,151 to 81-5,157.

20 (3) The State Fire Marshal may delegate the authority set
21 forth in this section to qualified local fire prevention personnel.
22 The State Fire Marshal may overrule a decision, act, or policy of
23 the local fire prevention personnel. When the State Fire Marshal
24 overrules the local personnel, such local personnel may follow the
25 appeals procedure established by sections 81-502.01 to 81-502.03.
26 Such delegation of authority may be revoked by the State Fire
27 Marshal for cause upon thirty days' notice after a hearing.

1 (4) The State Fire Marshal, first assistant fire marshal,
2 and deputies shall have such other powers and perform such other
3 duties as are set forth in sections 81-501.01 to 81-531 and
4 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

5 (5) The rules and regulations adopted and promulgated
6 pursuant to subdivision (1)(d) of this section may conform
7 generally to the standards recommended by the National Fire
8 Protection Association, Pamphlet Number 101, known as the Life
9 Safety Code, and associated pamphlets, but not when doing so would
10 impose an unduly severe or costly burden without substantially
11 contributing to the safety of persons or property. This section
12 and the rules and regulations adopted and promulgated pursuant
13 to subdivision (1)(d) of this section shall apply to existing as
14 well as new buildings, structures, and enclosures. Such rules and
15 regulations shall also apply to sites or structures in public
16 ownership listed on the National Register of Historic Places but
17 without destroying the historic quality thereof.

18 (6) Plans for compliance with the rules and regulations
19 adopted and promulgated pursuant to subdivision (1)(d) of this
20 section shall be reviewed by the State Fire Marshal. Plans
21 submitted after remodeling or construction has begun shall be
22 accompanied by a penalty of fifty dollars in addition to the plan
23 review fee set out in subdivision (4)(a) of section 81-505.01.

24 Sec. 694. Section 81-502.01, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-502.01 For the purposes of assisting the State Fire
27 Marshal in matters pertaining to the performance of his or her

1 duties, there is hereby established the Nebraska Fire Safety
2 Appeals Board. Such board shall consist of the following members:
3 (1) A representative of the fire insurance industry with experience
4 in fire prevention inspections, (2) an architect licensed in this
5 state, (3) a member of a board of education of a public school
6 district, (4) a fire protection engineer, (5) a member of the
7 inspection division of a paid fire department in this state,
8 (6) an active member of a volunteer fire department in this
9 state, (7) a ~~representative~~ two representatives of the Department
10 of Health and Human Services, and (8) a representative of the
11 Nebraska Association of Hospitals and Health Systems. ~~and (9)~~
12 ~~a representative of the Department of Health and Human Services~~
13 ~~Regulation and Licensure.~~ The members shall be appointed by the
14 Governor and shall serve for a term of four years.

15 Sec. 695. Section 81-601, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-601 The Department of Health and Human Services
18 ~~Regulation and Licensure~~ shall have general supervision and
19 control over matters relating to public health and sanitation and
20 shall provide for examination as provided in section 81-602 and
21 have supervision over all matters of quarantine and quarantine
22 regulations.

23 Sec. 696. Section 81-602, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-602 The Department of Health and Human Services
26 ~~Regulation and Licensure~~ shall have the right at all times to
27 inspect the equipment and methods of teaching in all medical

1 colleges and medical schools of the state and shall have the power
2 to refuse examination to the graduates of any school which, on
3 proper notice and hearing, shall be adjudged not a medical college
4 or medical school in good standing as defined by the laws of this
5 state.

6 Sec. 697. Section 81-604.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-604.01 Any local or state agency or department,
9 or any private facility involved in arranging or supervising
10 placements for those persons requiring care or supervision, shall
11 notify the Department of Health and Human Services ~~Regulation and~~
12 ~~Licensure~~ when there is reason to believe that the total number
13 of persons served in any institution, facility, place, or building
14 exceeds three individuals and that such facility is not currently
15 licensed by the Department of Health and Human Services. ~~Regulation~~
16 ~~and Licensure.~~ The department shall investigate or inspect such
17 complaints pursuant to the Health Care Facility Licensure Act.

18 Sec. 698. Section 81-604.02, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-604.02 For the purpose of assisting the citizens of
21 the state in receiving benefits under the federal medicare law,
22 the State of Nebraska authorizes the Division of Public Health
23 of the Department of Health and Human Services ~~Regulation and~~
24 ~~Licensure~~ to act as the survey and certification agency for the
25 medicare program in Nebraska and to contract to perform such
26 functions with the federal agency responsible for administration of
27 the medicare program and to enter into such other agreements as

1 may be necessary to implement federal requirements. The ~~department~~
2 division may also contract with the federal agency to perform
3 survey and certification functions in accordance with the federal
4 Clinical Laboratory Improvement Amendments of 1988.

5 Sec. 699. Section 81-604.03, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-604.03 The Division of Public Health of the Department
8 of Health and Human Services Regulation and Licensure is hereby
9 authorized to act as the survey and certification agency for
10 the medicaid program and to enter into such agreements with the
11 Department of Health and Human Services Finance and Support as
12 may be necessary to carry out its duties. ~~Until January 1, 1997,~~
13 ~~the Department of Health shall notify the Department of Social~~
14 ~~Services of any violation by a nursing facility, as defined in~~
15 ~~section 71-2097, of federal regulations for participation in the~~
16 ~~medicaid program. On and after January 1, 1997, the Department of~~
17 ~~Health and Human Services Regulation and Licensure shall notify the~~
18 ~~Department of Health and Human Services Finance and Support July~~
19 ~~1, 2007, the division shall notify the medicaid program of any~~
20 violation by a nursing facility, as defined in section 71-2097,
21 of federal regulations for participation in the medicaid program.
22 Civil penalties will be determined pursuant to sections 71-2097 to
23 71-20,101.

24 Sec. 700. Section 81-637, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-637 As used in sections 81-637 to 81-640, unless the
27 context otherwise requires:

1 (1) Cancer ~~shall mean~~ means all malignant neoplasm
2 regardless of the tissue of origin, including malignant lymphoma
3 and leukemia;

4 (2) Department means the Department of Health and Human
5 Services; and

6 ~~(2)~~ (3) Smoking disease shall mean means diseases whose
7 causes are linked to smoking including, but not limited to,
8 cardiovascular, pulmonary, and gastrointestinal diseases. ~~and~~

9 ~~(3) Director shall mean the Director of Finance and~~
10 ~~Support.~~

11 Sec. 701. Section 81-638, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-638 (1) The Legislature shall appropriate for each
14 year from the ~~Department of Health and Human Services Finance~~
15 ~~and Support~~ Health and Human Services Cash Fund to the ~~Department~~
16 ~~of Health and Human Services Finance and Support~~ department an
17 amount derived from one cent of the cigarette tax imposed by
18 section 77-2602, less any amount appropriated from the fund
19 specifically to the University of Nebraska Eppley Institute for
20 Research in Cancer and Allied Diseases. The ~~director~~ department
21 shall, after deducting expenses incurred in the administration
22 of such funds, distribute such funds exclusively for grants and
23 contracts for research of cancer and smoking diseases, for funding
24 the cancer registry prescribed in sections 81-642 to 81-650, and
25 for associated expenses due to the establishment and maintenance
26 of such cancer registry. Not more than two hundred thousand
27 dollars shall be appropriated for funding the cancer registry and

1 associated expenses. The University of Nebraska may receive such
2 grants and contracts, and other postsecondary institutions having
3 colleges of medicine located in the State of Nebraska may receive
4 such contracts.

5 (2) The Legislature shall appropriate for each year from
6 the ~~Department of Health and Human Services Finance and Support~~
7 Health and Human Services Cash Fund to the ~~Department of Health~~
8 ~~and Human Services Finance and Support~~ department for cancer
9 research an amount derived from two cents of the cigarette tax
10 imposed by section 77-2602 to be used exclusively for grants and
11 contracts for research on cancer and smoking diseases. No amount
12 shall be appropriated or used pursuant to this subsection for
13 the operation and associated expenses of the cancer registry. Not
14 more than one-half of the funds appropriated pursuant to this
15 subsection shall be distributed to the University of Nebraska
16 Medical Center for research in cancer and allied diseases and the
17 University of Nebraska Eppley Institute for Research in Cancer
18 and Allied Diseases. The remaining funds available pursuant to
19 this subsection shall be distributed for contracts with other
20 postsecondary educational institutions having colleges of medicine
21 located in Nebraska which have cancer research programs for the
22 purpose of conducting research in cancer and allied diseases.

23 (3) Any contract between the ~~Department of Health~~
24 ~~and Human Services Finance and Support~~ department and another
25 postsecondary educational institution for cancer research under
26 subsection (2) of this section shall provide that:

27 (a) Any money appropriated for such contract shall only

1 be used for cancer research and shall not be used to support any
2 other program in the institution;

3 (b) Full and detailed reporting of the expenditure of all
4 funds under the contract is required. The report shall include,
5 but not be limited to, separate accounting for personal services,
6 equipment purchases or leases, and supplies. Such reports shall be
7 made available to the Legislature; and

8 (c) No money appropriated for such contract shall be
9 spent for travel, building construction, or any other purpose
10 not directly related to the research that is the subject of the
11 contract.

12 Sec. 702. Section 81-639, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 81-639 The ~~director~~ department when making grants and
15 contracts pursuant to sections 81-637 to 81-640 shall consider:

16 (1) The relevancy of the applicant's proposal to the
17 furthering of research of cancer and smoking diseases;

18 (2) The feasibility of the applicant's proposal;

19 (3) The availability of other sources of funding for the
20 applicant's proposal;

21 (4) The facilities, personnel, and expertise available to
22 the applicant for use in the proposal; and

23 (5) Evidence of the quality of the applicant's prior
24 or existing programs for research of cancer and smoking diseases
25 or the applicant's potential for developing new programs for such
26 research.

27 Sec. 703. Section 81-640, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-640 The ~~director~~ department shall adopt and promulgate
3 rules and regulations pursuant to the Administrative Procedure Act
4 to:

5 (1) Establish an application process for grants and
6 contracts;

7 (2) Establish criteria for programs in order to receive
8 funding;

9 (3) Establish criteria as to the rates and amount of
10 funding; and

11 (4) Establish other procedures as he or she may deem
12 necessary for the proper administration of sections 81-637 to
13 81-640.

14 Sec. 704. Section 81-642, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 81-642 It is the intent of the Legislature to require the
17 establishment and maintenance of a cancer registry for the State
18 of Nebraska. This responsibility is delegated to the Department of
19 Health and Human Services ~~Regulation and Licensure~~ along with the
20 authority to exercise the necessary powers to implement sections
21 81-642 to 81-650. To insure an accurate and continuing source
22 of data concerning cancer, all hospitals within the state shall
23 make available to the ~~Department of Health and Human Services~~
24 ~~Regulation and Licensure~~ department upon its request, at least
25 once a year, information contained in the medical records of
26 patients who have cancer within such time following its diagnosis
27 as the department shall require. Any medical doctor, osteopathic

1 physician, or dentist within the state shall make such information
2 available to the department upon request by the department. This
3 cancer registry should provide a central data bank of accurate,
4 precise, and current information which medical authorities state
5 will assist in the research for the prevention, cure, and control
6 of cancer. The information contained in the cancer registry may be
7 used as a source of data for scientific and medical research. Any
8 information released from the cancer registry shall be disclosed
9 as Class I, Class II, Class III, or Class IV data as provided in
10 sections 81-663 to 81-675.

11 Sec. 705. Section 81-652, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-652 The Department of Health and Human Services may
14 (1) charge and receive fees, (2) accept third-party reimbursements
15 or matching funds from any federal governmental agency, private
16 corporation, or other public or private organization or entity, and
17 (3) accept grants or donations from any public or private agency,
18 organization, or entity for services provided by any home health
19 agency operated by the department. Such funds shall be paid to the
20 state treasury and credited to the ~~Department of Health and Human~~
21 ~~Services~~ Health and Human Services Cash Fund.

22 Sec. 706. Section 81-654, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 81-654 For purposes of sections 81-653 to 81-661:

25 (1) Brain injury registry shall mean the system of
26 reporting established by sections 81-653 to 81-661 in which cases
27 of brain or head injury in this state are reported and recorded

1 in order to achieve the goals of statistical identification and
2 planning for treatment and rehabilitation of persons with brain or
3 head injury and prevention of such injury;

4 (2) Brain or head injury shall mean clinically evident
5 neurotrauma resulting directly or indirectly from closed or
6 penetrating brain or head trauma, infection, febrile condition,
7 anoxia, vascular lesions, toxin, or spinal cord injury, not
8 primarily related to congenital or degenerative conditions,
9 chemical dependency, or aging processes, which impairs mental,
10 cognitive, behavioral, or physical functioning; and

11 (3) Department shall mean the Department of Health and
12 Human Services. ~~Regulation and Licensure.~~

13 Sec. 707. Section 81-661, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-661 The Department of Correctional Services, the
16 Department of Health and Human Services, ~~Regulation and Licensure,~~
17 ~~the Department of Health and Human Services,~~ the State Department
18 of Education and its divisions of special education and vocational
19 rehabilitation, and all other state agencies which serve persons
20 with brain or head injury shall recognize brain or head injury as a
21 distinct disability and shall identify those persons with brain or
22 head injury among the persons served by the agency. Such agencies
23 shall utilize the brain injury registry for improvement of state
24 services for persons with brain or head injury.

25 Sec. 708. Section 81-663, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 81-663 The Legislature finds that there is a need to

1 establish a framework for consistent release of medical record and
2 health information from the many registries and data bases the
3 ~~Department of Health and Human Services Regulation and Licensure~~
4 department maintains for the State of Nebraska. The purpose of the
5 release of data is to encourage research which will protect the
6 health and safety of the citizens of Nebraska by assisting in the
7 prevention, cure, and control of specific diseases or injuries.

8 Sec. 709. Section 81-664, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-664 For purposes of sections 81-663 to 81-675:

11 (1) Aggregate data means data contained in the medical
12 record and health information registries maintained by the
13 department which is compiled in a statistical format and which does
14 not include patient-identifying data;

15 (2) Approved researcher means an individual or entity
16 which is approved by the department pursuant to section 81-666 to
17 obtain access to data contained in the medical record and health
18 information registries maintained by the department to assist in
19 the scientific or medical research for the prevention, cure, or
20 control of a disease or injury process;

21 (3) Case-specific data means data contained in the
22 medical record and health information registries concerning a
23 specific individual other than patient-identifying data;

24 (4) Department means the Department of Health and Human
25 Services; ~~Regulation and Licensure;~~

26 (5) Medical record and health information registry means
27 the system of reporting certain medical conditions occurring

1 in this state, as prescribed by law, which are reported and
2 recorded in order to achieve the goals of prevention, cure, and
3 control through research and education, and includes the birth
4 defects registry established in section 71-646, the cancer registry
5 established in sections 81-642 to 81-650, the brain injury registry
6 established in sections 81-653 to 81-661, and the Parkinson's
7 Disease Registry established in the Parkinson's Disease Registry
8 Act;

9 (6) Patient-identifying data means the patient's name,
10 address, record number, symbol, or other identifying particular
11 assigned to or related to an individual patient; and

12 (7) Research means study specific to the diseases or
13 injuries for which access to data is requested and which is
14 dedicated to the prevention, cure, or control of the diseases or
15 injuries.

16 Sec. 710. Section 81-676, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 81-676 The Department of Health and Human Services
19 ~~Regulation and Licensure~~ shall establish a health care data
20 analysis section to conduct data and research initiatives in
21 order to improve the efficiency and effectiveness of health care in
22 Nebraska.

23 Sec. 711. Section 81-677, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-677 The Department of Health and Human Services,
26 ~~Regulation and Licensure,~~ through the health care data analysis
27 section, shall:

1 (1) Conduct research using existing health care data
2 bases and promote applications based on existing research;

3 (2) Work closely with health plans and health care
4 providers to promote improvements in health care efficiency and
5 effectiveness;

6 (3) Participate as a partner or sponsor of private-sector
7 initiatives that promote applied research on health care delivery,
8 outcomes, costs, quality, and management; and

9 (4) Provide technical assistance as needed.

10 Sec. 712. Section 81-678, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 81-678 Data and research initiatives by the health care
13 data analysis section of the Department of Health and Human
14 Services ~~Regulation and Licensure~~ shall:

15 (1) Promote applied research on health care delivery,
16 outcomes, costs, quality, and management;

17 (2) Conduct research and promote health care applications
18 based on scientifically sound and statistically valid methods;

19 (3) Emphasize data that is useful and relevant and is not
20 redundant of existing data;

21 (4) Be structured to minimize the administrative burden
22 on health plans, health care providers, and the health care
23 delivery system; and

24 (5) Promote continuous improvement in the efficiency and
25 effectiveness of health care delivery.

26 Sec. 713. Section 81-679, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 81-679 Data and research initiatives by the health care
2 data analysis section of the Department of Health and Human
3 Services ~~Regulation and Licensure~~ related to public-sector health
4 care programs shall:

5 (1) Assist the state's current health care financing
6 and delivery programs to deliver and purchase health care in a
7 manner that promotes improvements in health care efficiency and
8 effectiveness;

9 (2) Assist the state in its public health activities,
10 including the analysis of disease prevalence and trends and the
11 development of public health responses;

12 (3) Assist the state in developing and refining its
13 overall health policy, including policy related to health care
14 costs, quality, and access; and

15 (4) Provide health care information that allows the
16 evaluation of state health care financing and delivery programs.

17 Sec. 714. Section 81-680, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-680 (1) To carry out the duties assigned under
20 sections 81-677 to 81-679, the Department of Health and Human
21 Services ~~Regulation and Licensure~~ may contract with or provide
22 grants to private-sector entities.

23 (2) The health care data analysis section of the
24 ~~Department of Health and Human Services Regulation and Licensure~~
25 department shall negotiate with private-sector organizations
26 currently collecting data on specific health conditions of interest
27 to the section in order to obtain required data in a cost-effective

1 manner and minimize administrative costs. The section shall support
2 linkages between existing private-sector data bases and shall
3 consider and implement methods to streamline data collection in
4 order to reduce public-sector and private-sector administrative
5 costs.

6 (3) The health care data analysis section shall use
7 existing public-sector data bases, such as those existing for the
8 medical assistance program and medicare, to the greatest extent
9 possible. The section shall support linkages between existing
10 public-sector data bases and consider and implement methods
11 to streamline public-sector data collection in order to reduce
12 public-sector and private-sector administrative costs.

13 Sec. 715. Section 81-699, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 81-699 For purposes of the Parkinson's Disease Registry
16 Act:

17 (1) Approved researcher means an individual or entity who
18 is approved by the department in accordance with section 81-666 to
19 obtain access to data contained in the Parkinson's Disease Registry
20 to assist in scientific or medical research for the prevention,
21 cure, or control of Parkinson's disease;

22 (2) Department means the Department of Health and Human
23 Services; ~~Regulation and Licensure;~~

24 (3) Parkinson's disease means a chronic, progressive
25 disorder in which there is a lack of the chemical dopamine
26 in the brain as a direct result of the destruction of the
27 dopamine-producing cells in the portion of the brain called the

1 substantia nigra. Clinical features of the disease include tremor
2 at rest, slow movements, rigidity, and unsteady or shuffling gait
3 and may be indicated by improvement after using medications used
4 for Parkinson's disease; and

5 (4) Related movement disorder means a disorder that
6 resembles Parkinson's disease in some way, such as another kind of
7 tremor.

8 Sec. 716. Section 81-6,110, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-6,110 Costs associated with administration of the
11 Parkinson's Disease Registry Act shall be paid from cash funds,
12 contract receipts, gifts, and grants. No general funds shall be
13 used to pay such costs. Funds received by the department for the
14 payment of such costs shall be remitted to the State Treasurer for
15 credit to the ~~Department of Health and Human Services Regulation~~
16 ~~and Licensure~~ Health and Human Services Cash Fund. Notwithstanding
17 any other provision of the act, the Parkinson's Disease Registry
18 and all duties related to the administration of such registry and
19 such act shall cease as of June 30 of any year in which the
20 department has insufficient funds on hand to perform its duties
21 under the act for the next fiscal year, after providing thirty
22 days' written notice to each approved researcher who has contracted
23 with the department under section 81-6,101 in the current biennium.

24 Sec. 717. Section 81-6,113, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 81-6,113 For purposes of the Outpatient Surgical
27 Procedures Data Act:

1 (1) Department means the Department of Health and Human
2 Services; ~~Regulation and Licensure;~~

3 (2) Medicaid means the medical assistance program
4 established pursuant to the Medical Assistance Act;

5 (3) Medicare means Title XVIII of the federal Social
6 Security Act, as such title existed on January 1, 2003;

7 (4) Outpatient surgical procedure means a surgical
8 procedure provided to patients who do not require inpatient
9 hospitalization;

10 (5) Primary payor means the public payor or private payor
11 which is expected to be responsible for the largest percentage of
12 the patient's current bill;

13 (6) Private payor means any nongovernmental source of
14 funding; and

15 (7) Public payor means medicaid, medicare, and any other
16 governmental source of funding.

17 Sec. 718. Section 81-1021, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 81-1021 (1) All motor vehicles acquired by the State of
20 Nebraska shall be indelibly and conspicuously lettered, in plain
21 letters of a contrasting color or reflective material:

22 (a) On each side thereof with the words State of Nebraska
23 and following such words the name of whatever board, department,
24 bureau, division, institution, including the University of Nebraska
25 or state college, office, or other state expending agency of the
26 state to which the motor vehicle belongs; and

27 (b) On the back thereof with the words State of Nebraska.

1 (2) This section shall not apply to motor vehicles used
2 or controlled by:

3 (a) The Nebraska State Patrol, the Public Service
4 Commission, the Game and Parks Commission, deputy state sheriffs
5 employed by the Nebraska Brand Committee and State Fire Marshal
6 for state law enforcement purposes, inspectors employed by the
7 Nebraska Liquor Control Commission, and persons employed by the Tax
8 Commissioner for state revenue enforcement purposes, the exemption
9 for state law enforcement purposes and state revenue enforcement
10 purposes being confined strictly to the seven agencies specifically
11 named;

12 (b) The Department of Health and Human Services or the
13 Department of Correctional Services for the purpose of apprehending
14 and returning escaped offenders or parole violators to facilities
15 in the Department of Correctional Services and transporting
16 offenders and personnel of the Department of Correctional Services
17 and patients and personnel of the ~~Department of Public Institutions~~
18 ~~until January 1, 1997, and on and after January 1, 1997, the~~
19 Department of Health and Human Services who are engaged in
20 off-campus program activities;

21 (c) The Military Department;

22 (d) Vocational rehabilitation counselors and the
23 Department of Health and Human Services for the purposes of
24 communicable disease control, for the prevention and control of
25 those communicable diseases which endanger the public health, or
26 used by the Department of Health and Human Services ~~Regulation and~~
27 ~~Licensure~~ in the enforcement of drug control laws or for other

1 investigation purposes;

2 (e) The Department of Agriculture for special
3 investigative purposes;

4 (f) The Nebraska Motor Vehicle Industry Licensing Board
5 for investigative purposes; and

6 (g) The Insurance Fraud Prevention Division of the
7 Department of Insurance for investigative purposes.

8 Sec. 719. Section 81-1139.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 81-1139.01 Until June 30, 1993, the Department of
11 Administrative Services shall be limited to the same rental rate
12 on the Stone Office Building at the Norfolk Regional Center as
13 existed on January 1, 1992. The Department of Health and Human
14 Services ~~Finance and Support~~ shall be limited to reimbursement from
15 the counties maintaining office space in the Stone Office Building
16 pursuant to section 68-130 in the same amount such counties paid
17 for rental of such space on January 1, 1992.

18 Sec. 720. Section 81-1281, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-1281 (1) The Department of Economic Development
21 shall establish a comprehensive housing affordability strategy.
22 The strategy shall identify needs, consider issues, and
23 make recommendations regarding housing affordability, housing
24 availability, housing accessibility, and housing quality in
25 Nebraska. The department shall submit the strategy to the Governor
26 and the Clerk of the Legislature by October 1, 1991.

27 (2) The department shall establish a housing advisory

1 committee consisting of individuals and representatives of groups
2 involved with housing issues in Nebraska to assist with the
3 establishment of the strategy. The department shall work with
4 the Governor's Policy Research Office, the Department of Health
5 and Human Services, ~~the Department of Health and Human Services~~
6 ~~Regulation and Licensure~~, the Department of Banking and Finance,
7 the Nebraska Investment Finance Authority, and any other public or
8 private agency involved in addressing housing needs in Nebraska.

9 (3) The strategy shall:

10 (a) Describe the state's estimated housing needs for
11 the ensuing five-year period and the need for assistance for
12 different types of tenure and for different categories of
13 residents such as very-low-income, low-income, and moderate-income
14 persons, the elderly, single persons, large families, residents
15 of nonmetropolitan areas, and other categories determined to be
16 appropriate by the committee;

17 (b) Describe the nature and extent of homelessness
18 in the state, providing an estimate of the special needs of
19 various categories of persons who are homeless or threatened
20 with homelessness and a description of the strategy for (i)
21 helping low-income families avoid homelessness, (ii) addressing the
22 emergency shelter and transitional housing needs of the homeless,
23 including an inventory of facilities and services that meet such
24 needs in Nebraska, and (iii) helping homeless persons make the
25 transition to permanent housing;

26 (c) Describe significant characteristics of the housing
27 market;

1 (d) Explain whether the cost of housing or the incentives
2 to develop, maintain, or improve affordable housing in Nebraska are
3 affected by public policies, including tax policies affecting land
4 and other property, land-use controls, zoning ordinances, building
5 codes, fees and charges, growth limits, and policies that affect
6 the return on residential investment;

7 (e) Explain the institutional structure, including
8 private industry, nonprofit organizations, and public institutions
9 through which the state will carry out the strategy, assessing the
10 strengths and gaps and describing what will be done to overcome
11 any gaps;

12 (f) Describe the means of coordination and cooperation
13 among the units of state and local government in the development
14 and implementation of the strategy;

15 (g) Establish standards and procedures for monitoring
16 housing activities undertaken because of the strategy; and

17 (h) Include any other information on housing in Nebraska
18 deemed relevant by the Department of Economic Development or the
19 committee.

20 Sec. 721. Section 81-15,103, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-15,103 (1) For licensed activities involving disposal
23 of low-level radioactive waste, the council shall adopt and
24 promulgate rules and regulations which require a licensee
25 to provide an adequate surety or other financial arrangement
26 sufficient to accomplish any necessary corrective action or cleanup
27 on real or personal property caused by releases of radiation from a

1 disposal site during the operational life and closure period of the
2 facility and to comply with the requirements for decontamination,
3 decommissioning, site closure, and stabilization of sites, and
4 structures and equipment used in conjunction with such licensed
5 activity, in the event the licensee abandons the facility or
6 defaults for any reason in performing its operational, closure,
7 or other requirements. Such sureties required under the license
8 shall be compatible with applicable federal financial assurance
9 regulations and shall be reviewed by the department at the time
10 of license review under subsection (1) of section 81-15,106. Any
11 arrangement which constitutes self-insurance shall not be allowed.
12 In addition to the surety requirements, the licensee shall purchase
13 property and third-party liability insurance and pay the necessary
14 periodic premiums at all times in such amounts as determined by the
15 council pursuant to rules and regulations adopted and promulgated
16 pursuant to the Low-Level Radioactive Waste Disposal Act.

17 (2) All sureties required pursuant to subsection (1) of
18 this section which are forfeited shall be paid to the department
19 and remitted to the State Treasurer for credit to the Radiation
20 Site Closure and Reclamation Fund which is hereby created. Any
21 money in the fund may be expended by the department as necessary to
22 complete the requirements on which licensees have defaulted. Money
23 in this fund shall not be used for normal operating expenses of the
24 department. Any money in the fund available for investment shall be
25 invested by the state investment officer pursuant to the Nebraska
26 Capital Expansion Act and the Nebraska State Funds Investment Act.

27 (3) For licensed activities involving the disposal of

1 low-level radioactive waste, the council shall adopt and promulgate
2 rules and regulations which require a licensee, before termination
3 of the license, to make available such funding arrangements as may
4 be necessary to provide for custodial care.

5 (4) (a) Remedial cleanup costs which become necessary
6 during the operational life and closure of the facility shall
7 be the responsibility of the licensed facility operator either
8 directly or through applicable surety bonds, insurance, and other
9 financial arrangements required pursuant to subsection (1) of
10 this section, and (b) any remaining remedial cleanup costs which
11 become necessary during the operational life and closure of the
12 facility and which exceed funds available under subdivision (a)
13 of this subsection shall be assessed proportionately by waste
14 volume against the generators, then proportionately by waste volume
15 against the party states as provided by the Central Interstate
16 Low-Level Radioactive Waste Compact.

17 (5) Remedial cleanup costs which become necessary during
18 the period of custodial care shall be assessed (a) first, against
19 the funds established pursuant to this section and any surety
20 bonds, insurance, or other financial arrangements established for
21 the facility, excluding such funds reserved for custodial care,
22 (b) second, against the licensed facility operator, (c) third,
23 against the generators based on proportionate waste volume, and
24 (d) fourth, against the party states based on proportionate waste
25 volume as provided by the Central Interstate Low-Level Radioactive
26 Waste Compact.

27 (6) All funds collected from licensees pursuant to

1 subsection (3) of this section and subsection (1) of section
2 81-15,101 shall be paid to the department and remitted to the State
3 Treasurer for credit to the Radiation Custodial Care Fund which
4 is hereby created. All interest accrued on money deposited in the
5 fund may be expended by the department for the continuing custodial
6 care, maintenance, and other care of facilities from which such
7 funds are collected as necessary for protection of the public
8 health, safety, and environment. Any money in the fund available
9 for investment shall be invested by the state investment officer
10 pursuant to the Nebraska Capital Expansion Act and the Nebraska
11 State Funds Investment Act.

12 (7) The department may, by contract, agreement, lease,
13 or license with the Department of Health and Human Services,
14 ~~Regulation and Licensure~~, provide for the decontamination, closure,
15 decommissioning, reclamation, surveillance, or other care of a site
16 subject to this section as needed to carry out the purposes of this
17 section.

18 Sec. 722. Section 81-15,170, Revised Statutes Cumulative
19 Supplement, 2006, is amended to read:

20 81-15,170 The Nebraska Environmental Trust Board is
21 hereby created as an entity of the executive branch. The board
22 shall consist of the Director of Environmental Quality, ~~the~~
23 ~~Director of Regulation and Licensure~~, the Director of Natural
24 Resources, the Director of Agriculture, the secretary of the Game
25 and Parks Commission, the chief executive officer of the Department
26 of Health and Human Services or his or her designee, and nine
27 citizens appointed by the Governor with the approval of a majority

1 of the Legislature. The citizen members shall begin serving
2 immediately following notice of nomination and prior to approval by
3 the Legislature. The citizen members shall represent the general
4 public and shall have demonstrated competence, experience, and
5 interest in the environment of the state. Two of the citizen
6 appointees shall also have experience with private financing of
7 public-purpose projects. Three appointees shall be chosen from each
8 of the three congressional districts. The board shall hire an
9 executive director who shall hire and supervise other staff members
10 as may be authorized by the board. The executive director shall
11 serve at the pleasure of the board and be solely responsible to it.
12 The Game and Parks Commission shall provide administrative support,
13 including, but not limited to, payroll and accounting functions, to
14 the board.

15 Sec. 723. Section 81-15,189, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-15,189 In order to implement the Petroleum Products
18 and Hazardous Substances Storage and Handling Act and the Petroleum
19 Release Remedial Action Act, the Director of Environmental Quality
20 shall appoint a technical advisory committee to work with the
21 Department of Environmental Quality. The duties of the committee
22 are advisory only. Committee members shall include, but not be
23 limited to:

24 (1) The Director of Environmental Quality or his or her
25 designee;

26 (2) The State Fire Marshal or his or her designee;

27 (3) The executive director of the Nebraska Petroleum

1 Marketers and Convenience Store Association or his or her designee;

2 (4) The executive director of the League of Nebraska
3 Municipalities or his or her designee;

4 (5) The executive director of the Nebraska Association of
5 County Officials or his or her designee;

6 (6) The executive director of the Nebraska Petroleum
7 Council or his or her designee;

8 (7) The executive director of the American Consulting
9 Engineers Council of Nebraska or his or her designee;

10 (8) The executive director of the Nebraska Chamber of
11 Commerce and Industry or his or her designee;

12 (9) The executive director of the Associated Builders and
13 Contractors or his or her designee;

14 (10) The executive director of the Nebraska Cooperative
15 Council or his or her designee;

16 (11) A representative of the Department of Health and
17 Human Services; ~~or a representative of the Department of Health and~~
18 ~~Human Services Regulation and Licensure;~~ and

19 (12) A member of the public representing environmental
20 interests.

21 Committee members shall be reimbursed for actual and
22 necessary expenses as provided in sections 81-1174 to 81-1177.

23 Sec. 724. Section 81-15,210, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 81-15,210 (1) The director of the Nebraska Emergency
26 Management Agency shall serve as the State Administrator of the
27 Nebraska Emergency Planning and Community Right to Know Act. The

1 State Emergency Response Commission is created and shall be a
2 part of the Nebraska Emergency Management Agency for administrative
3 purposes. The membership of the commission shall include the
4 Director of Environmental Quality or his or her designee, ~~the~~
5 ~~Director of Health and Human Services Regulation and Licensure~~
6 ~~or his or her designee,~~ the Director-State Engineer or his or
7 her designee, the Superintendent of Law Enforcement and Public
8 Safety or his or her designee, the State Fire Marshal or
9 his or her designee, the director of the Nebraska Emergency
10 Management Agency or his or her designee, the chief executive
11 officer of the Department of Health and Human Services or his
12 or her designee, two elected officials or employees of municipal
13 or county government, and one citizen member to represent each
14 of the following interest groups: Firefighters, local emergency
15 management, public or community health, environmental protection,
16 labor, school district, small business, agricultural business,
17 chemical industry, highway transportation, and rail transportation.
18 The Governor shall appoint the municipal or county government
19 officials or employees and the citizen members with the approval of
20 the Legislature. The appointments shall be made to represent the
21 three congressional districts as equally as possible.

22 (2) The members appointed by the Governor shall be
23 appointed for terms of four years, except that of the first citizen
24 members appointed, three members shall serve for one-year terms,
25 three members shall serve for two-year terms, and two members
26 shall serve for three-year terms, as designated at the time of
27 appointment.

1 (3) A vacancy on the commission shall exist in the event
2 of the death, disability, or resignation of a member. Any member
3 appointed to fill a vacancy occurring prior to the expiration of
4 the term for which his or her predecessor was appointed shall be
5 appointed by the Governor for the remainder of such term.

6 Sec. 725. Section 81-15,245, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 81-15,245 The Private Onsite Wastewater Treatment System
9 Advisory Committee is created. The advisory committee shall be
10 composed of the following eleven members:

11 (1) Seven members appointed by the director as follows:

12 (a) Five private onsite wastewater treatment system
13 professionals; and

14 (b) Two registered environmental health specialists or
15 officials representing local public health departments which have
16 established programs for regulating private onsite wastewater
17 treatment systems;

18 (2) The chief executive officer of the Department of
19 Health and Human Services or his or her designee; The Director of
20 Health and Human Services Regulation and Licensure or his or her
21 designated representative;

22 (3) The Director of Environmental Quality or his or her
23 designated representative; and

24 (4) One representative with experience in soils and
25 geology and one representative with experience in biological
26 engineering, both of whom shall be designated by the vice
27 chancellor of the University of Nebraska Institute of Agriculture

1 and Natural Resources.

2 Members shall be reimbursed for their actual and
3 necessary expenses as provided in sections 81-1174 to 81-1177. The
4 department shall provide administrative support for the advisory
5 committee.

6 Sec. 726. Section 81-2205, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-2205 Committee shall mean the ~~Department of Health and~~
9 ~~Human Services~~ Division of Medicaid and Long-Term Care Advisory
10 Committee on Aging.

11 Sec. 727. Section 81-2206, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 81-2206 Department shall mean the Division of Medicaid
14 and Long-Term Care of the Department of Health and Human Services.

15 Sec. 728. Section 81-2213, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 81-2213 The ~~Department of Health and Human Services~~
18 department shall have the following powers and duties:

19 (1) To develop, approve, and submit to the Governor
20 a two-year, three-year, or four-year state plan on aging, as
21 determined by the department, for purposes of administering grant
22 funds allocated to the state under the federal Older Americans Act,
23 as now or hereafter amended, or administering state funds allocated
24 to the Nebraska Community Aging Services Act;

25 (2) To cooperate with similar departments, commissions,
26 or councils in the federal government and in other states;

27 (3) To adopt and promulgate rules, regulations, and

1 bylaws governing its procedure and activities and as necessary
2 to carry out the policies of the department and the policies
3 prescribed by the Administration on Aging pursuant to the federal
4 Older Americans Act, as now or hereafter amended;

5 (4) To create committees to aid in the discharge of its
6 powers and duties;

7 (5) To cooperate with and assist other state and local
8 governmental agencies and officials on matters relating to services
9 for older individuals;

10 (6) To divide the state into planning-and-service areas
11 as provided in section 71-807 for behavioral health regions,
12 except that Regions 3 and 5 may each be divided into two
13 planning-and-service areas with boundaries as established by the
14 department for planning-and-service areas in existence in those
15 regions on July 1, 1982;

16 (7) To establish minimum standards for program operations
17 and to adopt and promulgate rules and regulations for the
18 performance of area agencies on aging and for any services provided
19 by such area agencies on aging which are funded in whole or in
20 part under the Nebraska Community Aging Services Act or the federal
21 Older Americans Act, as now or hereafter amended;

22 (8) To require the submission of a one-year and a
23 five-year area plan and budget by each area agency on aging or
24 agency seeking designation as an area agency on aging. Such plans
25 and budgets shall be submitted sixty days prior to the start of
26 each fiscal year in accordance with the uniform area plan format
27 and other instructions issued by the department;

1 (9) To review and approve a one-year and a five-year area
2 plan and budget for the support of each area agency on aging and
3 the provision of eligible activities and services as defined in
4 section 81-2222;

5 (10) To adopt and submit to the Legislature a community
6 aging services budget;

7 (11) To review the performance of each area agency on
8 aging and, based on the department-approved area plan and budget,
9 to determine the continued designation or the withdrawal of the
10 designation of an area agency on aging receiving or requesting
11 resources through the state or under the Nebraska Community Aging
12 Services Act or the federal Older Americans Act, as now or
13 hereafter amended. After consultation with the director of the
14 area agency on aging and the governing unit of the area agency
15 on aging, the department may withdraw a designation when it
16 can be shown that federal or state laws, rules, or regulations
17 have not been complied with, state or federal funds are not
18 being expended for the purposes for which they were intended, or
19 older individuals are not receiving appropriate services within
20 available resources. Withdrawal of a designation may be appealed
21 to the ~~director~~ department. Upon withdrawal of a designation, the
22 department may temporarily perform all or part of the functions and
23 responsibilities of the area agency on aging, may designate another
24 agency to perform such functions and responsibilities identified
25 by the department until the designation of a new area agency on
26 aging, and, when deemed necessary, may temporarily deliver services
27 to assure continuity;

1 (12) To conduct continuing studies and analyses of the
2 problems faced by older individuals within the state and develop
3 such recommendations for administrative or legislative action as
4 appear necessary;

5 (13) To develop grants and plans, enter into contracts,
6 accept gifts, grants, and federal funds, and do all things
7 necessary and proper to discharge these powers and duties;

8 (14) To accept and administer any other programs or
9 resources delegated, designated, assigned, or awarded to the
10 department from public or private sources;

11 (15) To report and make recommendations to the Governor
12 and the Legislature on the activities of the department and
13 the committee and improvements or additional resources needed to
14 promote the general welfare of older individuals in Nebraska. Each
15 member of the Legislature shall receive a copy of the report; and

16 (16) Such other powers and duties necessary to
17 effectively implement the Nebraska Community Aging Services Act.

18 Sec. 729. Section 81-2226, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 81-2226 In the event of a documented malfeasance on the
21 part of any area agency on aging in the administration of its area
22 plan, and the failure of the governing unit of the area agency
23 to take corrective action within a reasonable time, the ~~director~~
24 department shall, with the advice of the ~~Department of Health and~~
25 ~~Human Services Advisory Committee on Aging,~~ committee, terminate
26 funding to the area agency governing unit by disapproving the area
27 plan for that area agency on aging.

1 Sec. 730. Section 81-2229, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-2229 It is the intent of the Legislature that:

4 (1) The state establish a statewide system of care
5 management units through the area agencies on aging to aid in the
6 coordination of the delivery of a continuum of services targeted
7 primarily to the state's older population;

8 (2) The continuum of services include the proper
9 utilization of all available care resources, including
10 community-based services and institutionalization, to ensure
11 that persons are receiving, when reasonably possible, the level of
12 care that best matches their level of need;

13 (3) The Department of Health and Human Services ~~Finance~~
14 ~~and Support~~ apply for and implement a Title XIX medicaid waiver as
15 a way to provide care management services to medicaid clients and
16 to control the rising costs of medicaid; and

17 (4) The Department of Health and Human Services develop a
18 uniform method for data collection by care management units.

19 Sec. 731. Section 81-2248, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 81-2248 State long-term care ombudsman shall mean the
22 person or persons appointed ~~by the director~~ under section 81-2249
23 to fulfill the responsibilities of the office.

24 Sec. 732. Section 81-2249, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 81-2249 Pursuant to the Older Americans Act, the office
27 of the state long-term care ombudsman is hereby created. The

1 department shall establish and operate the office. The ~~director~~
2 chief executive officer of the department shall appoint the state
3 long-term care ombudsman.

4 Sec. 733. Section 81-2250, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 81-2250 The department shall establish a long-term care
7 ombudsman program consisting of the state long-term care ombudsman
8 and any local long-term care ombudsman ~~program.~~ programs. The
9 program, as approved and administered by the department, shall:

10 (1) Investigate and resolve complaints not reportable
11 under the Adult Protective Services Act made by or on behalf
12 of older individuals who are patients, residents, or clients
13 of long-term care facilities relating to action, inaction, or
14 decisions of providers of long-term care services or their
15 representatives, of public agencies, or of social service agencies
16 which may adversely affect the health, safety, welfare, or rights
17 of such older individuals. The ~~director~~ department shall adopt
18 and promulgate rules and regulations regarding the handling of
19 complaints received under this section, including procedures for
20 conducting investigations of complaints. The rules and regulations
21 shall include procedures to ensure that no state long-term
22 care ombudsman or ombudsman advocate investigates any complaint
23 involving a provider with which the representative was once
24 employed or associated;

25 (2) Provide for the training of the state long-term
26 care ombudsman and ombudsman advocates and promote the development
27 of citizen organizations to participate in the program, provide

1 training to ombudsman advocates and staff of local long-term
2 care ombudsman programs, issue certificates attesting to the
3 successful completion of the prescribed training, and provide
4 ongoing technical assistance to such local programs;

5 (3) Analyze and monitor the development and
6 implementation of federal, state, and local laws, regulations, and
7 policies with respect to long-term care facilities and services
8 and recommend any changes in such laws, regulations, and policies
9 deemed by the long-term care ombudsman program to be appropriate;

10 (4) Establish a statewide, uniform reporting system to
11 collect and analyze data relating to complaints and conditions
12 in long-term care facilities for the purpose of identifying and
13 resolving significant problems. The data shall be submitted to the
14 ~~Department of Health and Human Services Regulation and Licensure~~
15 department at least on an annual basis;

16 (5) Prepare reports as requested by the ~~director~~
17 department and provide policy, regulatory, and legislative
18 recommendations to solve problems, resolve complaints, and improve
19 the quality of care and life in long-term care facilities;

20 (6) Provide for public forums to discuss concerns and
21 problems relating to action, inaction, or decisions that may
22 adversely affect the health, safety, welfare, or civil rights of
23 residents of long-term care facilities and their representatives,
24 public agencies and entities, and social service agencies; and

25 (7) Provide information to public agencies, legislators,
26 and others, as deemed necessary by the department, regarding the
27 problems and concerns, including recommendations related to such

1 problems and concerns, of older individuals residing in long-term
2 care facilities.

3 Sec. 734. Section 81-2255, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 81-2255 (1) When abuse, neglect, or exploitation of an
6 older individual who is a patient, resident, or client of a
7 long-term care facility is suspected, the long-term care ombudsman
8 program shall make an immediate referral to the ~~Department of~~
9 ~~Health and Human Services~~ department or the appropriate law
10 enforcement agency. The long-term care ombudsman program shall
11 coordinate with adult protective services or the appropriate law
12 enforcement agency, if requested, pursuant to any investigation of
13 such abuse, neglect, or exploitation.

14 (2) Any state agency or board which responds to a
15 complaint against a long-term care facility or an individual
16 employed by a long-term care facility that was referred to the
17 agency or board by the office shall forward to the office copies of
18 related inspection reports, plans of correction, and notice of any
19 citations and sanctions levied against the long-term care facility
20 or the individual.

21 Sec. 735. Section 81-2260, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-2260 (1) Information relating to any complaints or
24 investigation made pursuant to the Long-Term Care Ombudsman Act
25 that discloses the identities of complainants, patients, residents,
26 or clients shall remain confidential except:

27 (a) When disclosure is authorized in writing by the

1 complainant, patient, resident, or client or the older individual's
2 guardian or legal representative;

3 (b) When disclosure is necessary to an investigation
4 of abuse, neglect, or exploitation and the disclosure is made
5 to the Attorney General, the county attorney, or the Department
6 of Health and Human Services Regulation and Licensure, ~~or adult~~
7 ~~protective services of the Department of Health and Human Services,~~
8 department;

9 (c) When disclosure is necessary for the provision of
10 services to the patient, resident, or client and the patient,
11 resident, or client is unable to express written or oral consent;
12 or

13 (d) Upon court order.

14 (2) Access to the records and files of the office
15 relating to any complaint or investigation made pursuant to the
16 Long-Term Care Ombudsman Act shall be permitted only at the
17 discretion of the state long-term care ombudsman, except that the
18 identity of any complainant, witness, patient, resident, or client
19 shall not be disclosed by such ombudsman except:

20 (a) When disclosure is authorized in writing by such
21 complainant, witness, patient, resident, or client or the older
22 individual's guardian or legal representative;

23 (b) Upon court order; or

24 (c) Pursuant to subsection (3) of this section.

25 (3) The records and files of the office shall be released
26 to adult protective services of the ~~Department of Health and Human~~
27 ~~Services~~ department if it so requests for purposes of the Adult

1 Protective Services Act.

2 (4) The ~~director~~ department shall have access to the
3 records and files of the office to verify the effectiveness and
4 quality of the long-term care ombudsman program.

5 Sec. 736. Section 81-2265, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-2265 It is the intent of the Legislature that the
8 Department of Health and Human Services ~~Finance and Support~~ shall
9 amend its current medicaid waiver to provide any federal funding
10 which may be available for the purpose of a pilot project for
11 preadmission screening and that the ~~Department of Health and Human~~
12 ~~Services Finance and Support~~ department shall contract with the
13 ~~Department of Health and Human Services~~ to develop and implement
14 such a pilot preadmission screening project.

15 Sec. 737. Section 81-2267, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 81-2267 The Department of Health and Human Services and
18 ~~the Department of Health and Human Services Finance and Support~~
19 shall evaluate the pilot project for the effectiveness of using
20 medicaid funds, any savings of those funds realized which can be
21 used to serve the ever-growing number of frail and vulnerable older
22 individuals in Nebraska, and the effectiveness of preadmission
23 screening and care management to divert individuals from nursing
24 facility admission who do not need that level of care.

25 Sec. 738. Section 81-2268, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 81-2268 Services identified by care plans for those

1 eligible for medical assistance whose care needs are appropriate
2 for nursing facilities but whose needs can be met outside a
3 nursing facility may be purchased with medicaid waiver funds
4 available through the home and community-based waiver for the aged
5 and disabled administered by the Department of Health and Human
6 Services, ~~and the Department of Health and Human Services Finance~~
7 ~~and Support.~~

8 Sec. 739. Section 81-3602, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 81-3602 (1)(a) The Rural Development Commission shall
11 consist of members who represent a wide range of rural Nebraska
12 interests.

13 (b) The Governor shall appoint four members to the
14 commission. The Governor shall appoint a representative of his
15 or her office and one representative from each of the Department
16 of Economic Development, the Department of Agriculture, and the
17 ~~Nebraska Department of Health and Human Services. System.~~

18 (c) The Speaker of the Legislature shall appoint one
19 member of the Legislature to the commission.

20 (d) Other members shall be appointed by the Governor
21 to represent federal agencies, local governments, tribal
22 governments, nonprofit organizations, regional economic development
23 organizations, the private sector, postsecondary education, and
24 youth.

25 (e) The chairperson and vice-chairperson of the
26 commission shall be elected by a majority of the members of
27 the commission at the first commission meeting in odd-numbered

1 years and shall each serve a two-year term as chairperson and
2 vice-chairperson, respectively.

3 (2) The commission shall meet at the call of the
4 chairperson or a majority of the members. The chairperson shall
5 call such meetings as he or she determines necessary to fulfill
6 the duties of the commission. A quorum shall be one-half of the
7 members.

8 (3) The members of the commission shall be reimbursed for
9 their actual and necessary expenses as provided in sections 81-1174
10 to 81-1177 and pursuant to policies of the commission.

11 Sec. 740. Section 83-101.08, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 83-101.08 The Department of Health and Human Services,
14 ~~the Department of Health and Human Services Regulation and~~
15 ~~Licensure,~~ and the Department of Health and Human Services Finance
16 and Support shall consult and cooperate with the Department of
17 Correctional Services so as to coordinate in an effective manner
18 the activities of the departments with those related activities
19 affecting the welfare of persons which are the responsibility
20 of the Department of Health and Human Services, ~~the Department~~
21 ~~of Health and Human Services Regulation and Licensure,~~ the
22 Department of Health and Human Services Finance and Support,
23 and the Department of Correctional Services.

24 Sec. 741. Section 83-107.01, Revised Statutes Cumulative
25 Supplement, 2006, is amended to read:

26 83-107.01 The official names of the state institutions
27 under the supervision of the Department of Health and Human

1 Services shall be as follows: (1) Beatrice State Developmental
2 Center, (2) Lincoln Regional Center, (3) Norfolk Regional Center,
3 (4) Hastings Regional Center, (5) Grand Island Veterans' Home, (6)
4 Norfolk Veterans' Home, (7) Western Nebraska Veterans' Home, (8)
5 Youth Rehabilitation and Treatment Center-Kearney, ~~and~~ (9) Youth
6 Rehabilitation and Treatment Center-Geneva, ~~the official name of~~
7 ~~the state institution under the supervision of the Department of~~
8 ~~Health and Human Services shall be~~ and (10) the Thomas Fitzgerald
9 Veterans' Home prior to July 1, 2007, and, on and after July 1,
10 2007, ~~shall be~~ the Eastern Nebraska Veterans' Home.

11 Sec. 742. Section 83-113, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 83-113 The ~~Director~~ Department of Health and Human
14 Services may examine any of the officers, attendants, guards,
15 and other employees and make such inquiries as will determine
16 their fitness for their respective duties and shall investigate and
17 report to the Governor any abuses or wrongs alleged to exist in the
18 institution.

19 Sec. 743. Section 83-114, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 83-114 The ~~Director~~ Department of Health and Human
22 Services shall have the power to summon and examine witnesses
23 under oath, to examine books and papers pertaining to the subject
24 under investigation, and to compel the production of such books and
25 papers. Witnesses who are not employees of the state shall receive
26 the same fees as witnesses in civil cases in the district court,
27 and their fees shall be paid by vouchers. Any officer or employee

1 who interferes in any manner with the ~~director's~~ department's
2 official investigation shall be deemed guilty of a misdemeanor, and
3 upon conviction thereof shall be removed from his or her position,
4 and be fined in a sum not less than ten dollars nor more than one
5 hundred dollars. The claim that any testimony or evidence sought to
6 be elicited or produced may tend to incriminate the person giving
7 or producing it, or expose him or her to public ignominy, shall not
8 excuse him or her from testifying or producing the evidence, but
9 any evidence given by a witness at such an investigation shall not
10 be used against him or her in a criminal prosecution. A witness
11 shall not be exempt from prosecution and punishment for perjury
12 for testifying falsely at an investigation. It shall be the duty
13 of the ~~director~~ department to cause such testimony to be filed in
14 the office of the department as soon thereafter as practicable, and
15 such testimony shall be open for inspection. Any person failing
16 to obey the orders of the ~~director~~, department, issued under the
17 provisions of this section, shall be reported by the ~~director~~
18 department to the district court, or any judge thereof, and shall
19 be dealt with by the court or judge as for contempt of court.

20 Sec. 744. Section 83-115, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 83-115 The ~~Director~~ Department of Health and Human
23 Services shall be prepared to give any information desired by
24 the Legislature concerning the institutions under ~~his or her~~ its
25 control, and ~~his or her~~ its administration shall be subject to
26 examination under oath by a legislative committee, touching any
27 matter in regard to which the Legislature may desire information

1 concerning the condition of the institutions, their inmates, and
2 the performance of their duties by the ~~director or his or her~~
3 ~~employees-~~ department. The committee may call and examine under
4 oath any other persons as witnesses in such investigation. Such
5 examinations shall be conducted in the manner and subject to the
6 provisions of section 83-114.

7 Sec. 745. Section 83-121, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 83-121 There is hereby created the School District
10 Reimbursement Fund for use by the Department of Health and
11 Human Services. The fund shall consist of money received from
12 school districts or the ~~Department of Health and Human Services~~
13 ~~Finance and Support~~ department pursuant to section 79-1152 for
14 the operation of special education programs within the ~~Department~~
15 ~~of Health and Human Services-~~ department. The fund shall be used
16 for the operation of such programs pursuant to sections 79-1152,
17 79-1153, and 79-1155 to 79-1158.

18 Any money in the fund available for investment shall be
19 invested by the state investment officer pursuant to the Nebraska
20 Capital Expansion Act and the Nebraska State Funds Investment Act.

21 Sec. 746. Section 83-126, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 83-126 The ~~Director of Health and Human Services~~ chief
24 executive officer of the Department of Health and Human Services
25 shall appoint the chief executive officer of each facility referred
26 to in section 83-107.01. Each chief executive officer shall report
27 to the ~~director or his or her designee~~ chief executive officer of

1 the department or his or her designee and shall serve full time
2 and without term at the pleasure of the ~~director~~, chief executive
3 officer of the department.

4 Sec. 747. Section 83-130, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 83-130 An Emergency Revolving Fund, not to exceed three
7 thousand dollars for any one institution, upon order of the
8 ~~Director~~ Department of Health and Human Services, shall be drawn
9 from the State Treasurer, to be used by the chief executive officer
10 of each institution as an emergency cash fund. The fund shall be
11 drawn from the general maintenance appropriation for the ~~director~~,
12 department. An accounting of this fund shall be made by each
13 executive officer once each month to the ~~director~~, department.

14 Sec. 748. Section 83-305.03, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 83-305.03 The ~~Director~~ Department of Health and Human
17 Services or the Director of Correctional Services may order the
18 temporary transfer of any person committed to the Department
19 of Health and Human Services or the Department of Correctional
20 Services to the University of Nebraska Medical Center with the
21 concurrence of the chancellor thereof for special diagnosis and
22 treatment of any illness such person may suffer which cannot be
23 properly diagnosed or treated by the medical facilities of the
24 institution of which he or she is a patient or inmate. The
25 responsibility of guarding any such patient or inmate transferred
26 shall remain with the institution of which he or she is a patient
27 or inmate. The Department of Health and Human Services or the

1 Department of Correctional Services shall pay, out of the proper
2 account, all expenses incurred by the University of Nebraska
3 Medical Center on behalf of any patient or inmate so transferred by
4 the respective department.

5 Sec. 749. Section 83-324, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 83-324 The ~~Director~~ Department of Health and Human
8 Services may accept patients for care and treatment upon the
9 written application of a patient. Such written application may be
10 made by persons desiring to receive care and treatment in one of
11 the state hospitals for the mentally ill to the chief executive
12 officer of the state hospital in which the patient wishes to
13 receive treatment.

14 Sec. 750. Section 83-336, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 83-336 The ~~Director~~ Department of Health and Human
17 Services shall provide the mental health boards with blanks for
18 warrants, certificates, and other forms, such as will enable them
19 to comply with sections 83-313 to 83-357, and also with printed
20 copies of the applicable rules and regulations of the ~~Department of~~
21 ~~Health and Human Services.~~ department.

22 Sec. 751. Section 83-348, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 83-348 Patients in the state hospitals for the mentally
25 ill having no legal settlement in this state, or whose legal
26 settlement cannot be ascertained, shall be supported at the expense
27 of the state. This section shall apply to all such patients now

1 in the hospitals and shall include expenses already incurred and
2 remaining unpaid. The ~~Director~~ Department of Health and Human
3 Services may authorize the removal of any such patient at the
4 expense of the state.

5 Sec. 752. Section 83-363, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 83-363 As used in sections 83-227.01, 83-227.02, 83-350,
8 and 83-363 to 83-380, unless the context otherwise requires:

9 (1) Department ~~shall mean~~ means the Department of Health
10 and Human Services;

11 ~~(2) Director shall mean the Director of Health and Human~~
12 ~~Services;~~

13 ~~(3) (2) State institution shall mean~~ means the state
14 hospitals at Lincoln, Norfolk, and Hastings, the Beatrice State
15 Developmental Center, and such other institutions as may hereafter
16 be established by the Legislature for the care and treatment of
17 persons with a mental disorder or mental retardation;

18 ~~(4) (3) Relative shall mean~~ means the spouse of a patient
19 or, if the patient has no spouse and is under the age of majority
20 at the time he or she is admitted, the parents of a patient in a
21 state institution; and

22 ~~(5) (4) Parents shall mean~~ means either or both of a
23 patient's natural parents unless such patient has been legally
24 adopted by other parents, in which case parents ~~shall mean~~ means
25 either or both of the adoptive parents.

26 Sec. 753. Section 83-365, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 83-365 The Department of Health and Human Services
2 department shall periodically determine the individual cost,
3 exclusive of the cost of education, for the care, support,
4 maintenance, and treatment of the patients in each state
5 institution and for persons receiving treatment prescribed by
6 an institution following release or without being admitted as a
7 resident patient. In making such determinations, the department may
8 use averaging methods for each institution if, in the judgment of
9 the director, it is not practicable to compute the cost for each
10 patient. The cost of capital expenditures and capital construction
11 shall not be included in making such determinations.

12 Sec. 754. Section 83-366, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 83-366 The department shall assess against the patient
15 or his or her relatives all or such part of the cost determined
16 under section 83-365 as they are able to pay, in the judgment
17 of the ~~director~~, department, except that a patient who is placed
18 in a state institution to receive appropriate special education
19 pursuant to the Special Education Act or his or her relatives
20 shall be assessed only for medical care and medical treatment
21 costs as determined pursuant to rules and regulations adopted and
22 promulgated by the department in accordance with section 83-371.

23 Sec. 755. Section 83-373, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 83-373 Any determination of the ability of a patient or
26 relative to pay shall remain in effect until a redetermination
27 is made. A redetermination shall be made annually and at such

1 additional times when, in the judgment of the ~~director~~, department,
2 it is appropriate to do so, or when a request is made by the
3 patient or relative who is liable for the payments.

4 Sec. 756. Section 83-374, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 83-374 Any patient or relative aggrieved by a
7 determination of ability to pay may request a hearing before the
8 ~~director~~. department. The department shall adopt and promulgate
9 rules and regulations to govern the conduct of such hearings. The
10 ~~director~~ department may appoint an examiner who shall have power
11 to preside at such hearing, administer oaths, examine witnesses,
12 and take testimony and shall report the same to the ~~director~~.
13 department. Such hearings shall be held in the county in which the
14 person requesting the hearing resides, if such person so requests,
15 in which event it shall be the duty of the county board to attend
16 such hearing. The ~~director~~ department shall deliver his or her the
17 decision within sixty days after the conclusion of the hearing. Any
18 patient or relative aggrieved by a decision following a hearing may
19 appeal such decision, and such appeal shall be in accordance with
20 the Administrative Procedure Act.

21 Sec. 757. Section 83-376, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 83-376 When the full cost determined to be necessary for
24 the care, support, maintenance, and treatment of any patient is
25 not paid by the patient or his or her relatives within thirty
26 days of receipt of such care, (1) the county in which the patient
27 resides shall pay (a) the first fifteen dollars per day of the

1 unpaid cost for each of the first thirty days at the Hastings
2 Regional Center, the Lincoln Regional Center, the Norfolk Regional
3 Center, or other inpatient treatment facility where the patient
4 is receiving inpatient treatment pursuant to an order of a mental
5 health board under the Nebraska Mental Health Commitment Act or the
6 Sex Offender Commitment Act, (b) the first ten dollars per day of
7 the unpaid cost for each of the first thirty days at the Beatrice
8 State Developmental Center, and (c) the first three dollars per day
9 of the unpaid costs for each day after the first thirty days at any
10 such institution, (2) the balance of the unpaid cost shall be borne
11 by the state, and (3) the county in which the patient resides shall
12 be credited by the ~~Director of Health and Human Services~~ department
13 for amounts collected from such patient or his or her relatives in
14 excess of the portion of such costs borne by the state.

15 Sec. 758. Section 83-379, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 83-379 In the absence of fraud, a patient and his
18 relatives shall be liable only to the extent of assessments
19 actually made against them respectively, in accordance with
20 sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380. For
21 the purposes of sections 83-227.01, 83-227.02, 83-350, and 83-363
22 to 83-380, it shall be deemed fraudulent for any patient or his
23 relatives to transfer any assets or property to another person for
24 the purpose of affecting the determination of ability to pay. When
25 it is determined that such a fraudulent transfer has been made,
26 the ~~director~~ department shall consider the value of such assets
27 or property transferred in determining the ability to pay under

1 section 83-368 or 83-369.

2 Sec. 759. Section 83-380, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 83-380 Within thirty days after June 30, 1971, and
5 each year thereafter the ~~Director of Health and Human Services~~
6 department shall certify to the Director of Administrative Services
7 all amounts not previously certified due to each state institution
8 from the several counties having patients chargeable thereto. The
9 Director of Administrative Services shall thereupon notify the
10 county clerk of each county of the amount each county owes. The
11 county board shall add to its next levy an amount sufficient to
12 raise the amount certified as due. The county shall pay the amount
13 certified into the state treasury on or before the next June 1
14 following such certification.

15 From any county which fails to pay the total amount
16 certified as due annually by the next June 1 following
17 certification, there shall be withheld by the State Treasurer from
18 the next allocation to such county due under the provisions of
19 section 77-27,137, an amount sufficient to equal the amount unpaid
20 from such county which amount shall be deducted from the county's
21 portion and not the municipalities' under section ~~77-27,138.~~
22 77-27,137.01. The State Treasurer shall credit the amount withheld
23 the same as if the county had paid it when due as above provided.

24 Sec. 760. Section 83-381, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 83-381 As used in sections 83-217, 83-218, and 83-381 to
27 83-390, unless the context otherwise requires:

1 (1) Person with mental retardation ~~shall mean~~ means any
2 person of subaverage general intellectual functioning which is
3 associated with a significant impairment in adaptive behavior;

4 (2) ~~Director shall mean the Director~~ Department means the
5 Department of Health and Human Services or such person or agency
6 within the Department of Health and Human Services as the ~~director~~
7 chief executive officer of the department may designate; and

8 (3) Residential facility ~~shall mean~~ means an institution
9 specified under section 83-217 to provide residential care by the
10 State of Nebraska for persons with mental retardation.

11 Sec. 761. Section 83-382, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 83-382 Except as provided in sections 79-1148 and
14 79-1149, the ~~Department of Health and Human Services~~ department
15 shall have jurisdiction of the admission of persons with mental
16 retardation to a residential facility. Applications for admission
17 to a residential facility shall be filed with the ~~director.~~
18 department.

19 Sec. 762. Section 83-383, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 83-383 (1) An application for admission shall be made in
22 writing by one of the following persons:

23 (a) If the person applying for admission has a
24 court-appointed guardian, the application shall be made by the
25 guardian; and

26 (b) If the person applying for admission does not have a
27 court-appointed guardian and has not reached the age of majority,

1 as established by section 43-2101, as such section may from time to
2 time be amended, the application shall be made by both parents if
3 they are living together or by the parent having custody of such
4 person if both parents are not then living or are not then living
5 together.

6 (2) The county court of the county of residence of any
7 person with mental retardation or the county court of the county in
8 which a state residential facility is located shall have authority
9 to appoint a guardian for any person with mental retardation upon
10 the petition of the husband, wife, parent, person standing in
11 loco parentis to such person, a county attorney, or any authorized
12 ~~official of the Department of Health and Human Services authorized~~
13 ~~by the director-~~ department. If the guardianship proceedings are
14 initiated by an official of the ~~Department of Health and Human~~
15 ~~Services,~~ department, the costs thereof may be taxed to and paid
16 by the department if the person with mental retardation is without
17 means to pay the costs. The ~~Department of Health and Human Services~~
18 department shall pay such costs upon presentation of a proper
19 claim by the judge of the county court in which the proceedings
20 were initiated. The costs of such proceedings shall include court
21 costs, attorneys' fees, sheriffs' fees, psychiatric fees, and other
22 necessary expenses of the guardianship.

23 Sec. 763. Section 83-802, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 83-802 Pursuant to the compact as provided in section
26 83-801, the ~~Director of Health and Human Services~~ chief executive
27 officer of the Department of Health and Human Services or such

1 person as the ~~director~~ chief executive officer may designate shall
2 be the compact administrator and shall have the power to promulgate
3 rules and regulations to carry out more effectively the terms
4 of the compact. The compact administrator is hereby authorized,
5 empowered, and directed to cooperate with all departments,
6 agencies, and officers of and in the government of this state and
7 its subdivisions in facilitating the proper administration of the
8 compact or of any supplementary agreement or agreements entered
9 into by this state thereunder.

10 Sec. 764. Section 83-1204, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 83-1204 Department shall mean the Division of
13 Developmental Disabilities of the Department of Health and Human
14 Services.

15 Sec. 765. Section 83-1206, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 83-1206 Director shall mean the Director of ~~Health and~~
18 ~~Human Services.~~ Developmental Disabilities of the Division of
19 Developmental Disabilities.

20 Sec. 766. Section 83-1216, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 83-1216 (1) Beginning July 1, 1995, persons determined
23 to be eligible for specialized services who on or after September
24 6, 1993, graduate from high school, reach the age of twenty-one
25 years, or are currently receiving services shall receive services
26 in accordance with the Developmental Disabilities Services Act.
27 The amount of funding for any person receiving services shall be

1 determined using an objective assessment process developed by the
2 plan in subsection (3) of this section.

3 (2) The department shall provide directly or by contract
4 service coordination to Nebraska residents found to be eligible for
5 specialized services.

6 (3) It is the intent of the Legislature that by July
7 1, 2010, all persons determined to be eligible for services shall
8 receive services in accordance with the act. The department shall
9 establish a workgroup including representatives from the State
10 Department of Education, the Advisory Committee on Developmental
11 Disabilities, the Developmental Disabilities Planning Council,
12 consumers, families, consumer advocacy organizations, developmental
13 disabilities service providers, and other interested parties. On
14 or before December 1, 2004, the Department of Health and Human
15 Services, in consultation with the workgroup, shall submit a
16 report to the Legislature and the Governor for the development and
17 provision of needed specialized services to implement such intent.
18 Such plan shall provide for, but shall not be limited to: (a)
19 The adequate and equitable distribution of available funding for
20 the provision of specialized services pursuant to an objective
21 assessment process; (b) the incremental statewide implementation of
22 such process for the provision of specialized services; and (c) the
23 projected number of persons who will likely become eligible for
24 specialized services under the act during the next calendar year.
25 The workgroup shall terminate upon submission of such plan or on
26 December 1, 2004, whichever occurs earlier.

27 (4) It is the intent of the Legislature that the

1 department take all possible steps to maximize funding in order
2 to implement subsections (1) and (2) of this section prior to
3 the date these subsections become entitlements. All Nebraska
4 residents eligible for funding for specialized services under
5 the Developmental Disabilities Services Act shall apply for and
6 accept any federal medicaid benefits for which they may be eligible
7 and benefits from other funding sources within the department, the
8 State Department of Education, specifically including the Division
9 of Rehabilitation Services, and other agencies to the maximum
10 extent possible.

11 Sec. 767. Section 84-1409, Revised Statutes Cumulative
12 Supplement, 2006, is amended to read:

13 84-1409 For purposes of the Open Meetings Act, unless the
14 context otherwise requires:

15 (1)(a) Public body means (i) governing bodies of
16 all political subdivisions of the State of Nebraska, (ii)
17 governing bodies of all agencies, created by the Constitution of
18 Nebraska, statute, or otherwise pursuant to law, of the executive
19 department of the State of Nebraska, (iii) all independent boards,
20 commissions, bureaus, committees, councils, subunits, or any other
21 bodies created by the Constitution of Nebraska, statute, or
22 otherwise pursuant to law, (iv) all study or advisory committees
23 of the executive department of the State of Nebraska whether
24 having continuing existence or appointed as special committees with
25 limited existence, (v) advisory committees of the bodies referred
26 to in subdivisions (i), (ii), and (iii) of this subdivision, and
27 (vi) instrumentalities exercising essentially public functions; and

1 (b) Public body does not include (i) subcommittees of
2 such bodies unless a quorum of the public body attends a
3 subcommittee meeting or unless such subcommittees are holding
4 hearings, making policy, or taking formal action on behalf
5 of their parent body, and (ii) entities conducting judicial
6 proceedings unless a court or other judicial body is exercising
7 rulemaking authority, deliberating, or deciding upon the issuance
8 of administrative orders; and ~~(iii) the Policy Cabinet created in~~
9 ~~section 81-3009;~~

10 (2) Meeting means all regular, special, or called
11 meetings, formal or informal, of any public body for the purposes
12 of briefing, discussion of public business, formation of tentative
13 policy, or the taking of any action of the public body; and

14 (3) Videoconferencing means conducting a meeting
15 involving participants at two or more locations through the use of
16 audio-video equipment which allows participants at each location
17 to hear and see each meeting participant at each other location,
18 including public input. Interaction between meeting participants
19 shall be possible at all meeting locations.

20 Sec. 768. Section 85-134, Revised Statutes Cumulative
21 Supplement, 2006, is amended to read:

22 85-134 The University of Nebraska Medical Center Medical
23 Education Revolving Fund is hereby established to be administered
24 by the Department of Health and Human Services. ~~Finance and~~
25 ~~Support.~~ The fund shall be used to fund medical education. Any
26 money in the fund available for investment shall be invested by the
27 state investment officer pursuant to the Nebraska Capital Expansion

1 Act and the Nebraska State Funds Investment Act.

2 Sec. 769. Section 86-570, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 86-570 (1) The Geographic Information System Steering
5 Committee is hereby created and shall consist of nineteen members
6 as follows:

7 (a) The Chief Information Officer or his or her designee
8 and the director or designee of the Department of Environmental
9 Quality, the Department of Health and Human Services, ~~Regulation~~
10 ~~and Licensure~~, the Conservation and Survey Division of the
11 University of Nebraska, the Department of Natural Resources, and
12 the Governor's Policy Research Office;

13 (b) The Director-State Engineer or designee;

14 (c) The State Surveyor or designee;

15 (d) The Clerk of the Legislature or designee;

16 (e) The secretary of the Game and Parks Commission or
17 designee;

18 (f) The Property Tax Administrator or designee;

19 (g) One representative of federal agencies appointed by
20 the Governor;

21 (h) One representative of the natural resources districts
22 nominated by the Nebraska Association of Resources Districts and
23 appointed by the Governor;

24 (i) One representative of the public power districts
25 appointed by the Governor;

26 (j) Two representatives of the counties nominated by
27 the Nebraska Association of County Officials and appointed by the

1 Governor;

2 (k) One representative of the municipalities nominated
3 by the League of Nebraska Municipalities and appointed by the
4 Governor; and

5 (1) Two members at large appointed by the Governor.

6 (2) The appointed members shall serve for terms of
7 four years, except that of the initial members appointed by the
8 Governor, one of the representatives of the counties shall be
9 appointed for one year and the other shall be appointed for three
10 years, one of the members at large shall be appointed for one
11 year and the other for three years, and the representative of the
12 public power districts shall be appointed for two years. Their
13 successors shall be appointed for four-year terms. Any vacancy on
14 the committee shall be filled in the same manner as the original
15 appointment, and the person selected to fill such vacancy shall
16 have the same qualifications as the member whose vacancy is being
17 filled.

18 (3) The members shall be reimbursed for their actual and
19 necessary expenses as provided in sections 81-1174 to 81-1177.

20 Sec. 770. Original sections 2-3925, 2-3932, 13-1207,
21 23-3595, 31-740, 32-327, 37-1254.05, 37-1254.06, 42-106, 42-347,
22 42-358.01, 42-705, 42-917, 43-102, 43-104.01, 43-104.02, 43-104.03,
23 43-104.04, 43-107, 43-118, 43-123.01, 43-124, 43-125, 43-126,
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3 43-523, 43-525, 43-529, 43-536, 43-905, 43-907, 43-908, 43-1320,
4 43-1408.01, 43-1414, 43-1718.02, 43-1720, 43-1902, 43-1903,
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6 43-2616, 43-2617, 43-2620, 43-3305.01, 43-3314, 43-3317, 43-3318,
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11 44-32,134, 44-32,136, 44-32,152, 44-32,153, 44-32,156, 44-32,157,
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4 71-502, 71-502.01, 71-502.02, 71-502.03, 71-502.04, 71-503,
5 71-504, 71-514.02, 71-516.02, 71-516.03, 71-516.04, 71-524,
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24 71-3702, 71-3706, 71-4302, 71-4303, 71-4304, 71-4305, 71-4306,
25 71-4401, 71-4621, 71-4624, 71-4635, 71-4701, 71-4813, 71-4816,
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5 71-6303, 71-6309, 71-6319.15, 71-6319.28, 71-6319.30, 71-6319.31,
6 71-6321, 71-6602, 71-6724, 71-6725, 71-6732, 71-6743, 71-7012,
7 71-7105, 71-7107, 71-7110, 71-7603, 71-7606, 71-7614, 71-7702,
8 71-8008, 71-8211, 71-8228, 71-8231, 71-8236, 71-8239, 71-8312,
9 71-8313, 71-8503, 72-249, 75-303.01, 75-303.02, 76-1304, 76-14,102,
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19 83-130, 83-305.03, 83-348, 83-363, 83-365, 83-366, 83-373, 83-374,
20 83-379, 83-380, 83-381, 83-382, 83-383, 83-802, 83-1204, and
21 83-1206, Reissue Revised Statutes of Nebraska, and sections
22 2-15,100, 2-2626, 2-3254, 2-3928, 2-4901, 23-1204.06, 28-322.04,
23 28-326, 28-328, 28-343, 28-345, 28-356, 28-372, 28-377, 28-380,
24 28-401, 28-456, 28-713, 28-721, 28-726, 28-728, 28-734, 28-735,
25 28-736, 28-737, 28-738, 29-2929, 29-4125, 30-2487, 32-310, 42-358,
26 42-358.02, 42-364.13, 43-146.17, 43-522, 43-524, 43-2505, 43-2507,
27 43-2508, 43-2509, 43-2510, 43-2512, 43-2606, 43-3401, 43-3402,

1 43-3810, 46-602, 46-1217, 47-623, 48-602, 54-703, 60-3,135, 68-129,
2 68-716, 68-907, 68-908, 68-913, 68-915, 68-921, 68-922, 68-923,
3 68-924, 68-925, 68-926, 68-927, 68-928, 68-930, 68-931, 68-932,
4 68-940, 68-1095.01, 68-1204, 68-1205, 68-1206, 68-1207, 68-1207.01,
5 68-1402, 68-1403, 68-1405, 68-1503, 68-1514, 68-1521, 68-1522,
6 68-1523, 68-1802, 68-1807, 71-101, 71-102, 71-121.01, 71-193.01,
7 71-1,104.01, 71-1,132.05, 71-1,142, 71-1,143.01, 71-1,147.33,
8 71-1,206.18, 71-1,312, 71-1,339, 71-1,367, 71-434, 71-448, 71-501,
9 71-501.02, 71-503.01, 71-505, 71-507, 71-519, 71-520, 71-521,
10 71-522, 71-523, 71-529, 71-541, 71-601.01, 71-604.05, 71-612,
11 71-617.15, 71-627, 71-628, 71-634, 71-701, 71-702, 71-703, 71-705,
12 71-706, 71-707, 71-804, 71-805, 71-806, 71-811, 71-812, 71-814,
13 71-916, 71-919, 71-961, 71-1405, 71-1626, 71-1628.05, 71-1628.06,
14 71-1628.07, 71-1631, 71-1729, 71-1798.01, 71-17,109, 71-17,113,
15 71-17,118, 71-1903, 71-1909, 71-1910, 71-1913.01, 71-1913.02,
16 71-1913.03, 71-1914, 71-1915, 71-1919, 71-1922, 71-2081, 71-2304,
17 71-2305, 71-2423, 71-2431, 71-2432, 71-2437, 71-2610.01, 71-3406,
18 71-3503, 71-3516.01, 71-3524, 71-3601, 71-3610, 71-4728.05,
19 71-4737, 71-4738, 71-4739, 71-4740, 71-4741, 71-4742, 71-4743,
20 71-4744, 71-51,102, 71-5301, 71-5402, 71-5647, 71-5649, 71-5653,
21 71-5654, 71-5655, 71-5681, 71-5707, 71-5714, 71-5903, 71-6038,
22 71-6042, 71-6103, 71-6721, 71-7434, 71-7450, 71-7457, 71-7607,
23 71-7608, 71-7617, 71-7618, 71-7619, 71-7620, 71-7621, 71-7622,
24 75-303.03, 77-912, 77-2602, 79-217, 79-218, 79-219, 79-1104.04,
25 79-1902, 80-316, 80-318, 81-6,113, 81-1316, 81-15,170, 81-15,245,
26 81-2213, 81-3602, 83-107.01, 83-126, 83-324, 83-336, 83-376,
27 83-1216, 84-1409, 85-134, and 86-570, Revised Statutes Cumulative

1 Supplement, 2006, are repealed.

2 Sec. 771. The following sections are outright repealed:

3 Sections 68-1729, 68-1730, 71-355, 71-6011, 71-6319.17, 81-2207,

4 81-2241, 81-3103, 81-3108, 81-3203, 81-3303, and 83-125, Reissue

5 Revised Statutes of Nebraska, and sections 43-2414, 81-3001,

6 81-3001.01, 81-3004, 81-3006, 81-3007.01, 81-3008, 81-3009,

7 81-3101, 81-3102, 81-3106, 81-3107, 81-3109, 81-3201, 81-3202,

8 81-3206, 81-3207, 81-3208, 81-3209, 81-3210, 81-3211, 81-3301,

9 81-3302, 81-3306, 81-3307, 81-3308, 81-3309, 81-3310, and 81-3311,

10 Revised Statutes Cumulative Supplement, 2006.

11 2. In the Standing Committee amendments, AM74:

12 a. On page 1, line 8, strike "Health and Human Services

13 System" and insert "Department of Health and Human Services";

14 in line 14 strike "System"; in line 17 strike "system" and

15 insert "department"; and in line 18 strike "system's" and insert

16 "department's";

17 b. On page 2, line 3, before "Health" insert "Department

18 of"; and

19 c. On page 3, line 8, strike "and" and insert an

20 underscored comma; in line 9 strike "(a)"; in line 11 after

21 "71-6042" insert ", 71-6732," and strike "(b)" and insert "and

22 shall perform such other duties as provided by law."; and strike

23 lines 12 and 13.

24 3. On page 5, lines 23 and 27; page 7, line 23; and page

25 11, line 6, strike "system" and insert "department".

26 4. On page 7, line 15, strike "department,".

27 5. On page 11, line 2, strike "System".

1 6. On page 12, line 16, after "the" insert "Department
2 of".

3 7. On page 13, line 3, strike "departments" and insert
4 "divisions"; and in line 24 reinstate the stricken matter.

5 8. On page 17, line 3, strike "Department", show as
6 stricken, and insert "Division".

7 9. On page 20, line 6, strike the second occurrence of
8 "System".

9 10. Renumber the remaining sections accordingly.